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By **GEORGE M. FISK, PH.D.,** and **PAUL S. PEIRCE, PH.D.**

INTERNATIONAL COMMERCIAL POLICIES

WITH SPECIAL REFERENCE TO THE

UNITED STATES

A TEXT-BOOK

BY

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PREFACE

THE present volume is based on Fisk's *International Commercial Policies* which was published in 1907. That book proved very serviceable; but changes in conditions, legislation, and agencies since its appearance have been so extraordinary and present-day interest in the subject is so great, that a thorough revision has seemed highly desirable. Owing to the untimely death of Professor Fisk, such revision has fallen to the hands of another.

The primary aim has been to bring the discussion down to date. The general plan and scope of the original have been retained; but some changes have been made both in emphasis and in arrangement of material, and many chapters have been entirely rewritten.

Among modifications to which attention may be called are: the outline of American tariff legislation during the past sixteen years, together with a brief summary of post-war tendencies in Europe (Chapter IV); and the more extended treatment of export duties (Chapter V), trade prohibitions (Chapter VI), bases of valuation and weight, media of payment, discriminatory duties, dumping regulations, retaliatory duties, and preferential duties (Chapter VII), tariff systems and tariff commissions (Chapter VIII), free ports (Chapter X), commercial treaties (Chapters XI-XII), trade promoting institutions (Chapters XIII-XVI), and merchant marine policies (Chapter XVIII). Bibliographies and suggestive topics and questions at the ends of chapters have been revised, and some of those appended to the earlier chapters have been framed to invite further study of underlying principles of international trade.

I am especially indebted to Professor Richard T. Ely, for encouragement, advice, and constructive criticism; and to Professor Frank R. Rutter of Dartmouth College, who has read the manuscript carefully and offered suggestions of the greatest value. I am also under obligation to Professor R. L. Masson of the University of Michigan, Professor E. S. Fullbrook of the University of Nebraska, Mr. Joseph K. Folsom of Dartmouth College, Miss Clara F. Widger of the University of Wisconsin, Mr. Arnold Zurcher of Oberlin College, and many department, bureau, and division officials at Washington, D. C., for assistance by way of criticism or verification either of the manuscript as a whole or of selected chapters.

P. S. P.

OBERLIN, OHIO,
September, 1923.

PREFACE TO FISK'S *INTERNATIONAL COMMERCIAL POLICIES*

AN effort has been made in the present volume to bring together in a form available for students of economics, as well as for general readers, a systematic treatment of the politics of international commerce. Such an effort is beset with many difficulties. In the first place no method of treatment is entirely free from all objections. Again while there is an abundance of literature on some of the topics considered in the following pages, the literature is very meager as regards other topics. As to general works no English books cover the entire field of international commercial politics although some German writers — notably Roscher, Cohn, Lexis, van der Borcht, and Grunzel — have treated the subject in a scholarly way. The author wishes to make special acknowledgments to the last named author for frequent use which he has made of his excellent work, *System der Handelspolitik*. For services rendered he wishes also to express his appreciation to the officers and attendants of the libraries of Congress, University of Illinois, University of Wisconsin, and Wisconsin Historical Society, and to his colleagues, Professors N. A. Weston, M. H. Robinson, and J. W. Garner. Professors Weston and Robinson read the manuscript and their criticisms were invaluable. Professor Garner furnished valuable assistance in the preparation of the last two chapters on navigation policies. The author feels a special debt of gratitude to his former teacher, the editor of Macmillan's "Citizen's Library," both for earlier services in the classroom at the Johns Hopkins University and for reading, re-reading, and revising the manuscript of the present work.

G. M. F.

CHAMPAIGN, ILLINOIS,
October 8, 1907.

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INTERNATIONAL COMMERCIAL POLICIES

CHAPTER I

INTRODUCTION

General Statement. — There run through the writings of early authors on economic subjects two prominent ideas regarding commerce, one relating to its value and the other to its content. As regards the former Montesquieu, the immortal writer of the "Spirit of Laws," has tersely said: "the effect of commerce is riches; the consequence of riches, luxury; and that of luxury, the perfection of arts." The emphasis laid on not only the material but also the cultural value of commerce by early writers — a characteristic almost lacking in economic literature of the present day — is not difficult to understand. Trade among early civilized peoples, especially among the Greeks and, to a greater extent, the Romans, was largely in the hands of foreigners and was essentially piratical in character. These conditions stamped trade as an unworthy occupation and perpetuated traditions and prejudices which have taken centuries to eradicate. The civilized world has, however, been gradually converted, and but few writers of the present time think it worth while to demonstrate that the material advantages of trade are mutual and that commercial intercourse is civilizing in its effects.

As regards the second characteristic, the content of commerce, it may be stated that the ancients did not discriminate between commerce in its restricted and in its general sense;

that is, they did not differentiate commerce from navigation, transportation and communication, money and banking, and even, in some instances, from general industry or from political economy. They used the term in much the same sense in which in modern phraseology we speak of commercial education and schools of commerce, meaning thereby much more than mere studies of trade or even of general economics. The complex character of modern industrial life has led to a high degree of specialization not only in art but also in science. Such subjects as transportation and communication, or money and banking, have become so important and also so complex that, although of course recognized as perhaps the most important instruments of commerce, they are treated as special subjects in themselves rather than as synonymous with commerce. It should also be noted in this connection that there is a legal conception of commerce which may be, and in fact usually is, different from the economic use of the term. While economically considered the meaning of commerce tends to become more and more restricted, legally considered the opposite tendency is observable at least so far as the federal government of the United States is concerned, since the interpretation given by the Supreme Court to the meaning of commerce as used in the Constitution is much more extensive now than formerly. This discussion naturally brings us to a consideration of the meaning of commerce and its relation to economics and industry. In the treatment of the subject in the present text the term "commerce" is used in its restricted rather than in its broad meaning.

Meaning of Commerce. — Political economy, or economics, deals with those activities of man which are directed toward getting a living. It has often been defined as the science of wealth. Wealth in the economic sense consists of those goods and services which are useful to man, which possess utilities. These may be classified into elementary or material,

form, time, place, and quantity utilities. Both industry and commerce are important parts of the economic life of society. The former is primarily concerned with the creation of form utilities and the latter with those of time, place, and quantity. The agent in industry is the manufacturer; in commerce, the merchant. The separation between the two is never complete either in theory or in practice. Theoretically, many modern economists treat commerce as merely a part of economic production on the ground that the latter is incomplete until goods which have been manufactured or produced are put into the hands of final consumers. In practice there are many occupations in which the manufacturer and distributor or merchant are united. A simple illustration is that of the baker who not only makes the bread, but often offers it for sale to final consumers. While the development of the division of labor has tended toward a differentiation of industry and commerce, the latest phase of industrial consolidation has led in many instances to a closer union. Giant concerns like the United States Steel Corporation and the Standard Oil Company are both industrial and commercial institutions. They are engaged not only in the creation of form, but also of place, time, and quantity utilities.

Commerce is defined in the dictionary as "the exchange or buying and selling of commodities, especially the exchange of merchandise on a large scale." It is characterized as trade in its most extended form. The terms "commerce" and "trade" mean very much the same thing, although the former often refers to commercial dealings between nations, while the latter is more often applied to internal mercantile intercourse. Thus we speak, on the one hand, of the foreign commerce or commercial relations of the United States and, on the other hand, of the wholesale or retail trade of individual merchants. This distinction, however, is by no means consistently followed.

When goods have been manufactured they must be distributed to those places where consumers are to be found, held until they are wanted, and furnished in desired quantities. That branch of economics which thus serves as a bridge between initial producers and final consumers by creating the necessary place, time, and quantity utilities is commerce.

Materials of Commerce. — The materials of commerce are variously designated as goods, commodities, merchandise, wares, or products. While these terms are often used indiscriminately, their significance is not always the same. Owing to the difference in usage in different countries or even in different parts of the same country, fixed definitions are difficult to frame. The term "goods" usually means transferable articles of portable or personal property such as are intended for sale or might realize a money value if sold. Thus we speak of dry goods, fancy goods, high-priced goods, the goods of the merchant, and the like. A commodity is anything movable that is a subject of trade or of acquisition. Goods and commodities are nearly synonymous. The former term is somewhat more comprehensive than the latter, which usually, but not always, refers to articles of necessity. Merchandise is the generic term for all portable articles of trade considered as such in the aggregate. The American trade statistics, for instance, refer to the exportation of articles of domestic merchandise, meaning thereby the sum total of all articles of domestic production exported to other countries. The term "ware" or "wares," designates the sum of articles of a particular kind or class. It is often used in composition as in hardware, glassware, or tinware. Webster defines a product as anything that is produced, whether as the result of generation, growth, labor, or thought, or by the operation of involuntary causes. We speak of the products of the season or of the farm, the products of manufactures, the products of the brain, etc.

Classification of Commerce. — Trade is either wholesale or retail. The latter may be defined as sales to the final consumer and the former as mercantile transactions among all classes except the final consumer. Usually, but not always, wholesale trade is in larger values than retail trade. Commerce is also divided into domestic trade, carried on entirely within the boundaries of a particular country, and foreign or international trade between individuals of different nations. The present work has to do primarily with foreign commerce which is divided into various classes. Import trade comprises dealings in those goods brought into a country from foreign localities; export trade refers to shipments sent out of a country; and transit trade is traffic passing through third countries en route from one country to another. Trade passing between two countries via third countries is characterized as indirect trade in contradistinction to direct trade or trade passing directly between two countries. Foreign commerce is also classified as land trade and sea trade. To the extent that initiative, direction, and management are in the hands of its own nationals, a country's foreign commerce may be called *active*; to the extent that initiative, direction, and management are in foreign hands, it may be characterized as *passive*. The foreign commerce of all countries, taken in its entirety, is called *world commerce*.

Politics of Commerce. — Political science is the science of government; politics is the art of governing. The former deals with principles, while the latter has to do with practice, and finds formal expression in law. While good government is a necessity for commercial development, and nearly all governmental regulations, such as those relating to education, private property, revenue, or communication, influence commerce more or less, only those affecting it directly and consciously belong to the sphere of commercial politics. Commercial politics, therefore, comprises the laws, institutions,

and executive methods by means of which the sovereign will controls commerce. While the activities of the government are generally directed toward increasing commerce, this is not always the case. In fact, many laws, such as protective tariff regulations, often aim to discourage commerce; others, especially those of a police, moral, or sanitary character — as, for example, laws relating to the sale of firearms, intoxicating liquors, or adulterated foods — are often prohibitory. The aim of all laws regulating commerce should be to benefit society at large. There is no other justification for law, whether it be to regulate commerce or any other activity.

Political Control of Commerce. — In the Middle Ages the political control of commerce was vested theoretically in the central government represented by the king. But owing to the lack of effective centralization, the power to regulate commerce came more and more under the control of local quasi-public corporations or guilds. This control became nearly absolute and extended over both domestic and foreign commerce. To-day in strongly centralized governments, such as those of modern England, France, or Italy, the control of commerce is largely concentrated in the hands of the central government; but in federal states like the United States or Germany, where there is a division of power between central and local authority, foreign commerce is largely under the control of the former while domestic commerce comes more naturally under the purview of the latter. The situation in the United States in this particular is interesting. Although the American colonies were constantly interfered with by the mother country, the political troubles of England at home and on the Continent, coupled with the dangers of navigating the broad Atlantic which lay between her and her colonists, resulted in the latter having, in a large measure, their own way in matters of government. Their constant struggle, moreover, for both economic and political existence developed in the English

residents of the New World strong sentiments of self-government. When separation from the mother country came, the several states retained control over commerce, only the shadow of power being delegated to the so-called central government operating under the Articles of Confederation. It was the lack of effective central control over commerce which was one of the most decisive factors in giving birth to the Constitution. By this instrument Congress was given the power "to regulate commerce with foreign nations and among the several states and with the Indians." In other words, the federal government of the United States has control over foreign and interstate commerce, while control over strictly domestic commerce is retained by the several states.

General Character of Ancient Commerce. — Early trading peoples were organized on a municipal or local basis, as is sufficiently suggested by the names of Tyre, Carthage, Athens, Rhodes, and, in more recent time, Venice, and many other cities of Western Europe. Later, city leagues, such as Hansa, were organized on a quasi-political basis for purposes of commercial protection and expansion. Finally national life began with the dawn of modern history. Early civilization usually lacked the three essentials for the development of commerce on a large scale — means of transportation and communication, security, and freedom of labor and of exchange. The absence of transportation and communication facilities caused the materials of commerce to be confined largely to objects of great value and small bulk. As regards freedom of labor and exchange it may be said that the political institutions of the ancient world were utterly neglectful of the liberty, industry, and property of the masses. Insecurity caused commerce to be carried on by armed forces in the form of caravans on the land and the convoy on the sea. Ancient commerce was largely trade of civilized with less civilized or barbarous peoples. The latter distrusted and feared the

former, and warfare ending in annihilation, slavery, or a state of colonial dependence was generally the fate of the less civilized combatant. This distrust of the foreigner was a characteristic of the ancient world and was strengthened by the fact that much of the trade in those times was, as already stated, carried on by non-residents and partook more or less of the nature of plunder and piracy. Commerce in early times was, however, favored by one mollifying factor — the ancient right of hospitality which extended a protecting arm to the stranger, and was about the only form of personal contact among foreigners. Its origin is uncertain, but probably is traceable to the Phœnicians.

Development of Ancient Commerce. — The earliest civilizations in historic times were those centering about the great river valleys of the Nile, the Tigris, and Euphrates, and perhaps also about the river valleys of Southern and South-eastern Asia. The desert between Egypt on the west and the civilized nations to the east was pierced by the Arabs who were the great land merchants of antiquity. They were organized in caravans and were under no other form of government than the regulations which the members of the caravan imposed upon themselves. The Phœnicians were the greatest commercial people of antiquity. Centrally located on the eastern coast of the Mediterranean between the raw producing countries to the west and the manufacturing producing countries to the east, they developed an enormous land and sea trade. The former was carried on to the eastward by means of caravans with regularly established resting and trading stations. Their sea trade extended along the littorals of the Mediterranean, Black, and Red seas as well as along the coasts of the Atlantic and Indian oceans, and was carried on by convoys — armed ships of war accompanying merchant vessels which were likewise armed for protection. Trading posts were established along the coasts, some of which, such as

Carthage, became important cities. They were controlled for the most part by officers sent out by the home government. The entire commerce of Phœnicia was highly organized by and centralized in the government of the Phœnician cities of Tyre and Sidon, and these cities became not only great commercial but also great industrial centers.

Both the Greeks and the Romans had a strong antipathy against commerce. The former largely overcame this prejudice, but the latter never did. Early Greek commerce was largely carried on by foreigners, especially by the Phœnicians; but, as the Greeks developed their trade by establishing colonies along the shores of neighboring seas, they became more and more actively engaged in commerce. The Greeks inherited the general commercial policy of the Phœnicians, but they hardly improved upon it, because while Phœnician commerce was highly centralized for many centuries in one or at most two cities, Greek commerce was politically dominated at different intervals by different Greek cities. While Roman colonial policy was one of ruthless exploitation, her general commercial policy was largely passive. She established conditions of peace and security upon the sea by suppressing piracy throughout the Mediterranean, and upon the land by means of her roads and her superb military system; but her commerce — the supplying of her large population with articles of necessity and luxury — was largely in the hands of foreigners, especially the Greeks.

Commercial Policy of the Middle Ages. — No national commercial policy was evolved in antiquity or during the Middle Ages. In both periods the policy, as has been said, was essentially municipal in character. The Medieval policy, nevertheless, showed some advancement over the policy of the earlier period, both in domestic affairs centering in the market regulations and in foreign affairs, relating especially to fairs, factories, consuls, and, during the latter

part of the Middle Ages, to the organization of city leagues. Commercial centers were much more numerous in the Middle Ages than in antiquity, and developed not only along the coast, as in the earlier period, but at numerous inland points. The city leagues were quasi-political in character and may be regarded as forerunners of the modern state or nation. The general character of Medieval commercial politics is reflected in various governmental regulations more or less common in Western Europe. These regulations related to both foreign and domestic trade. An important institution affecting primarily the former was the factory located in foreign countries. This was usually a single warehouse at first, but often developed to include whole quarters in a foreign city. In these factories merchants from the home city dwelt, carried on trade, and administered law through officers, known as consuls, selected sometimes by themselves, but more often by the home government. The rights which these merchants enjoyed were usually based upon concessions granted by the sovereign in whose territory the factory was located. At home all matters relating to foreign trade were most minutely regulated, such as the time of departure of vessels, the order en route, the object of the trip, the return voyage, the armament, etc. Every effort was made to keep trade as much as possible in the hands of native citizens. For example, the Venetians forbade the Germans to engage in trade with the East by way of Venice, and the citizens of Lübeck strove to keep the Baltic trade from the Dutch.

In the more domestic commercial politics the spirit of exclusiveness also prevailed. Foreigners were mistrusted and partnerships with them were forbidden. Foreign visitors were restricted in many ways in their commercial dealings with native citizens. Many occupations were closed to them; the length of their sojourn and the number of their visits were limited; they could not pass a town without exposing their

wares for sale and paying the required market dues. At the weekly markets, consumers could supply their needs before the baker or merchant was allowed to make purchases. There was a community interest in the supplies of necessities, and often their exportation was prohibited. The trade of neighboring peasants was restricted to the home city, and laws regulating price, weight, measure, and quality were common. This restrictive municipal policy was very much relaxed at the great fairs which were held periodically in various parts of Europe.

Development of Medieval Commerce. — After the Roman Empire of the West came to an end, nominally in 476 A.D., and all Western Europe was overrun by barbarian hordes, commerce was in a more or less chaotic state for the next five hundred years. Such trade as remained was centered in the Mediterranean countries and was largely in the hands of the Greeks and, after the Mohammedan conquests, of the Arabs. During this period the growth of feudalism and the rise of towns both fostered decentralization, while the only centralizing force was in the Church. The most important factor in causing a reawakening of commerce was the Crusades. Toward the close of the tenth century the Turks overran Western Asia and captured Jerusalem. Fired by religious fanaticism, by the spirit of adventure, and by the fear lest the remnants of trade between the East and the West would be destroyed, the peoples of Western Europe undertook a series of crusades against the "Infidels," covering a period of about two hundred years and involving the transportation of millions of human beings toward the East. The effects of the Crusades were far-reaching. Politically, they broke the backbone of feudalism by attracting to the Orient large numbers of the nobility, many of whom failed to come back or who returned bankrupt. This great movement, therefore, increased the power of the Crown and of the burgher class in the cities.

Contact with the more advanced Byzantine and Arabic culture for two hundred years taught Western Europe many lessons in civilization. It gave an enormous impetus to commerce and industry not only by the direct demands it made for means of transportation and for general equipment in the way of food, clothing, and munitions of war, but also indirectly by increasing the wants of the people for eastern commodities. To meet these new requirements old commercial centers grew into new life, and many new cities sprang up in Western Europe. Flanders became the great industrial center of Northwestern Europe, while the cities of Northern Italy, especially Venice, centrally situated along the new lines of trade between the East and West, became rich and powerful. It was during this period also that the great city leagues were formed, the most important of which was Hansa. This was originally a league formed between Hamburg and Lübeck in the early part of the thirteenth century for the purpose of protecting the trade between these two centers. It grew very rapidly and soon numbered nearly one hundred cities in Northern Europe. Its government was a confederacy with its capital at Lübeck. Organized at first as a purely protective commercial association, it soon assumed important political prerogatives. It possessed a powerful fleet and an army, and these, together with its factories at London, Bruges, Bergen, Novgorod, and at other places, where special trading privileges were enjoyed, enabled it to protect effectively its own interests and to dominate commercial and industrial activity in the north of Europe as Venice did in the south. In spite of its monopolistic tendencies it did much for the civilization of Western Europe. The security which it gave to commerce and industry, not only among its own members but among foreigners with whom it traded, did much to increase the wealth, standard of living, and art impulses of Europe and to accustom its inhabitants to the principles of

orderly government, thereby paving the way for constitutional government. With the growth of effective national governments in the fifteenth and sixteenth centuries, the services of the city leagues became unnecessary and they did not long outlive their usefulness.

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D. BRYCE, *International Relations*; BÜCHER, *Industrial Evolution*; DAY, *History of Commerce*; FRANK, *Economic History of Rome*; OGG, *Economic Development of Modern Europe*; ZIMMERN, *Greek Commonwealth*; CLOW, *Introduction to the Study of Commerce*; HOBSON, *International Trade*; HERRICK, *History of Commerce and Industry*; WEBSTER, *General History of Commerce*; LINDSAY, *History of Merchant Shipping and Ancient Commerce*.

SUGGESTIVE TOPICS AND QUESTIONS

1. What is the meaning of "commerce" as used in the American Constitution? (Article "Commerce" in *American and English Encyclopedia of Law*). Make careful abstract of one of the decisions of the Supreme Court on this point.

2. Is the division of labor the cause of commerce? BÜCHER, *Industrial Evolution*, 303 *et seq.*

3. Is there any way of estimating the service of commerce in preparing a modern dinner? *Outlook*, March 13, 1897; CLOW, *Introduction*, 193-194.

¹ (1) For a general bibliography on the subject of international commercial politics; (2) for an explanation of the arrangement of the special bibliographies at the close of each chapter; (3) for an interpretation of all abbreviations in the special bibliographies, consult the General Bibliography at the end of the book.

4. To what extent is commerce a peacemaker among nations? *Scribners Magazine*, 31:344; CLARK, HAMILTON, and MOULTON, *Economics of War*, 43-54; BRYCE, *International Relations*, Lecture III.

5. Give examples to show how commerce is influenced by (a) racial differences; (b) stages of industrial development; (c) differences in resources of countries concerned. SMITH, *Industrial and Commercial Geography*, 675-681.

6. May the same trade be at one time domestic and at another foreign? Give examples.

7. Is it strictly correct to speak of commerce between nations? What do we really mean by the phrase?

8. Trace briefly the development of commercial policy in one of the following ancient lands: Egypt, Greece, Phoenicia, or Rome. DAY; CUNNINGHAM, *Western Civilization (Ancient Times)*; ZIMMERN, 312 *et seq.*; FRANK, *Economic History of Rome*.

9. What were the outstanding characteristics of commercial policy in the Middle Ages? DAY, *History of Commerce*, 44, 50-52, 123-127; OGG, *Economic Development of Modern Europe*, 65-75; LIPSON, *Economic History of England*, 444-509.

10. Is there danger of underestimating the significance of trade among undeveloped peoples? Compare the so-called "commercial theory" of Greek development with the view set forth in this chapter. USHER, *Industrial History of England*, 38-43.

CHAPTER II

MERCANTILISM

General Character of the Early Modern Period. — There are several marked characteristics which distinguish European civilization of the past four hundred years from that of the preceding thousand years. The power and wealth of the commercial and industrial classes had been increased, largely as a result of the Crusades. Wealth had developed a leisure class, and wealth and leisure had furnished the proper basis for the growth of the finer tastes. The literary phase of this general movement found expression in the so-called Renaissance or revival of the almost forgotten literary classics of the Græco-Roman world. Dante, Petrarch, Colet, Erasmus, and More figure prominently in this connection. Artistically the movement expressed itself in the building of magnificent cathedrals, in sculpture and in painting. A galaxy of great names, such as Michelangelo, Leonardo da Vinci, Raphael, Titian, and Rembrandt, belongs to this phase of the movement. The religious side of this development showed itself in the Protestant Reformation with Martin Luther as the central figure, while the political expression was reflected in the growth of nationality. As has been stated, the Crusades hastened the downfall of feudalism by enlisting the services of the feudal barons, many of whom lost their lives in the expeditions or returned with empty purses. Their power, at first largely monopolized by the rich burghers of the cities, was gradually taken over by the central governments. States like Spain, France, and England became nations in the modern

sense. Finally the commercial phase was characterized by three far-reaching events — the discovery of America by Columbus (1492), the finding of an all-water route to the Indies via the Cape of Good Hope by Vasco da Gama (1498), and the circumnavigation of the globe by Magellan and his followers (1519-1522). These discoveries changed the great trade routes between the East and the West, which the Turks, by their conquests culminating in the capture of Constantinople (1453), had greatly interfered with, and shifted the great commercial centers of Europe from the Mediterranean to the Atlantic shores. They brought into general use many new products, such as tobacco, potatoes, and Indian corn, and increased enormously the supply of the precious metals. They also cheapened transportation by substituting ocean trade for commerce, which was largely overland or confined to inland seas. Finally they gave added importance to the industrial and commercial classes and led to two hundred years of warfare for commercial supremacy. The entire general movement was powerfully aided by three important inventions — those of gunpowder, the printing press, and the mariner's compass.

General Characteristics of Mercantilism.—The changes which characterize the beginnings of modern history brought about important modifications in economic thought and action. Mercantilism is the term used to designate this general movement. It represented an effort to theorize and legislate along national rather than local or municipal lines. Both theoretically and practically it was intensively protective and derived much inspiration from the city economic policy of the Middle Ages. While Mercantilism possessed no universal theorems or regulations, it did have several more or less general characteristics, one of the most prominent of which was its overestimation of the importance of money. This is easy to understand. The precious metals had been

drained off to the East during preceding centuries in payment for eastern articles of trade, especially since the period of the Crusades. This was contemporaneous with an enormously growing demand for money payments for large standing armies, expensive courts, and salaried officials. The practical economic problem was how to meet these increasing expenses. Not to meet them meant a loss of sovereignty. Under such conditions and at a time when the principles of political economy were poorly understood, it was natural for economic writers and statesmen to reason that the wealth of a country was largely in proportion to the amount of the precious metals in its possession. Fortunate was the country possessing gold and silver mines; but, as none of the more advanced countries of Western Europe were thus favored, foreign trade must be resorted to in order to obtain the necessary supplies. This led to another important characteristic of Mercantilism — an overestimation of the value of foreign as compared with the value of domestic commerce.

First and Second Phases of Mercantilism. — When nations succeeded in obtaining the precious metals, the problem was how to keep them from leaving the country. This led to strenuous governmental activity. Cossa, the Italian economist, distinguishes three phases of Mercantilism, all of them being characterized by governmental efforts to maintain or increase the nation's supply of gold and silver. The characteristics of the first and earliest phase of Mercantilism were prohibition of specie exportation, debasement of coinage, and determination by law of the course of exchange. Many nations resorted to such measures, especially Spain and Portugal, but their inutility was early demonstrated. The second phase of the Mercantile System, the so-called "Balance of Bargains," found its fullest play in England. This scheme "was in effect a complex mass of provisions minutely regulating individual contracts between English and foreign traders

with a view to making them a source of increase to the volume of coin circulating at home. Of course the usual prohibition of specie exports was a part of the scheme which further regulated the proceedings of English merchants selling at 'staple towns' such as Bruges, Antwerp and Calais in particular. They were bound by law to bring back in cash from these places, which as staple towns enjoyed a monopoly of the export trade in manufactured goods, a fixed proportion of the prices paid them by aliens. Furthermore, there were the 'statutes of employment' which required alien traders selling goods in England to invest the money in English produce. To guarantee the exact observance of these minute prescriptions, traders were subjected to a special supervision by officers of finance, called Customers, upon whom devolved the collection of tariff dues in staple towns. This collection involved intervention on the part of still another public officer, called the Royal Exchanger, who exchanged foreign coins intrusted to the Customers for coin of the English realm."

Third Phase of Mercantilism: The Balance of Trade. — The practical application of the principles held by the earlier Mercantilists proved a hindrance to trade. Modifications were advocated especially by English writers, who asserted that it was not the individual but the aggregate or national balance which was the important thing. "Only one thing really enriches the state and that is such a shaping of complex commercial transactions as shall secure that the value of all imports shall be less than that of all exports." In this case there would be a balance payable in money. Such a balance became known as a "favorable balance of trade," while, on the other hand, if the total value of a country's imports exceeded the total value of its exports, so that a nation must pay a money balance, such a condition was designated an "unfavorable balance of trade." The task of the lawmaking power was to create a "favorable balance of trade" and in

the carrying out of this policy certain general tenets were more or less adhered to. In the first place it was held that foreign commerce was most profitable when exchange of domestic and foreign products was by means of native ships and sailors. The most noteworthy legislation in this respect was the English Navigation Acts of the seventeenth century.¹ Domestic manufactures were especially favored, and their importation as well as the exportation of raw materials were often discouraged or even prohibited, while, on the other hand, their exportation and the importation of raw materials were facilitated. The principal reasons which led the Mercantilists to regard domestic manufactures with such favor were two-fold — exports of manufactures represented proportionately greater values than the exports of raw materials, and therefore tended to create a favorable balance of trade; they also gave greater employment to labor and made a denser population possible — a condition deemed very desirable by the Mercantilists. Holding, as they did, the view that the advantages of trade were largely one-sided and accrued especially to those nations which could sell more than they bought, it was natural that the Mercantilists should strive to exercise political power over other countries in order to control more effectively the course of their trade.

This struggle led to a colonial policy of exploitation based upon the principle that the purpose of colonies was to enrich the mother land, especially as suppliers of raw materials and as purchasers of manufactured products. While Mercantilism as a foreign policy was especially emphasized, it was also a domestic policy. In its latter capacity it had to do with the creation and maintenance of effective peace conditions which had been impossible under the feudal system, with the supplanting of city monopolies by state monopolies, with the abolition or diminution of inland tolls, taxes, and other local

¹ See Chapter XVIII *infra*.

restrictions, and in general with all those regulations calculated to unify on a national rather than on a municipal basis all internal economic matters.

Criticism of Mercantilism. — One of the best brief criticisms of Mercantilism is given by Cossa. "Theoretically viewed," he says, "Mercantilism, in its doctrines about the balance of trade and the functions of customs duties, is the first regular attempt at explaining the phenomena of the circulation of wealth, and being the first it was not the best, but necessarily had its imperfections. Production was not clearly understood in those days because capital had never been defined and was still confused with money, money being the most obvious and permanent shape which accumulated wealth assumed. Undoubtedly the Mercantilists grossly exaggerated the importance of money, not considering that its function was purely instrumental; not all of them grasped the rudimentary fact that without selling there could be no buying; many of them were at pains to invent means which accomplished just what they never dreamed of. Money they considered to be merchandise, but a merchandise *sui generis*, and here they were right. They were also right in deploring the evils of poverty, but their remedy was ill considered, since it is possible to have too much even of such a good thing as money. Its excessive abundance raises prices and stops exportation. They could appreciate the value of money in mass, but not of money in movement. They could not see that it was just as important to have it circulate freely and quickly as to have much of it. They considered that the balance of trade and the balance of debits and credits were convertible; and it therefore never dawned upon them that a nation might go on for a long time importing goods of greater value than those it exported without the least danger of exhausting its store of the precious metals in the process. Their impenetrability in this respect resulted from their not

being aware that a large proportion of payments is made, not in money but in merchandise and from their ignoring the material circumstance that an excess in value of imports over exports is often covered by drafts upon foreign ports for amounts there due to the importing country. Again, the Mercantilists were totally at sea with their chimerical notion that a balance favorable to a given country could be maintained continuously at every given moment. Furthermore, they never made room in their minds for the least comprehension of what a gross self-deception lurked in the so-called principle of reciprocity upon which commercial treaties were so constantly based. Their mental processes could not cope with the fact that a country which refuses admission to foreign goods, on the plea that the foreigner shuts out its own, occupies the ridiculous position of a man who declines something that he needs because his neighbors are treating themselves in the same shabby manner.

“The Mercantilists did not perceive that nations as well as individuals grow rich in one way, and one way only, — by producing more than they consume, — chiefly because external commerce and manufactures, being of course the chief source of wealth, engrossed their whole attention. Hence their doctrine that exports must exceed imports, which involved the absurd identification of the interests of the nation at large with those of one class only, the trading class. This monstrous error bore its fatal fruit in rivalries and wars between England, France and Holland, each belaboring the other two with tariff assaults and reprisals, each bent on economic primacy.”

A proper understanding of the development of commerce during the sixteenth, seventeenth, and eighteenth centuries is impossible without an intelligent appreciation of the general principles of Mercantilism. During this period these principles guided the economic policy of Western European countries, and each in turn played an important rôle in the contest for

commercial supremacy — first Portugal, then Spain, followed by the Netherlands, France, and England.

Portugal and Spain. — Portuguese were the first people in modern Europe to make long voyages and important discoveries, which were begun in the early part of the fifteenth century under Henry the Navigator. India was reached by Vasco da Gama in 1498, and in 1500 the Portuguese took possession of Brazil. Her power was overshadowed by Spain, which became a united kingdom in the latter part of the fifteenth century, and under Charles V., by means of successful wars, brilliant discoveries, and fortunate marriages, her empire comprised most of western continental Europe excepting France and also embraced a large part of the New World and important colonies in the East. For a period of about half a century Spain enjoyed a great industrial awakening, but in spite of a strenuous application of the principles characteristic of the earlier stages of Mercantilism large quantities of her precious metals left the country. The abundance of these metals had caused a depreciation in their value as reflected in the rise of prices, and large quantities of manufactured goods were imported. The search for gold in the New World had developed the spirit of adventure and had crippled the industrial life of the people. The successful revolt of the Netherlands and unfortunate wars with England and France deprived her of many of her important possessions and left her loaded with debts. Spain ceased playing a leading rôle in European commercial politics after the middle of the seventeenth century.

The Netherlands. — The inhabitants of the Netherlands — the countries now known as Belgium and Holland — had been very industrious people for centuries. Flanders (modern Belgium and the northeastern part of France) furnished the world with many manufactures, especially woollen textiles, and her workmen taught Western Europe many industrial

arts. Bruges was for a long time the leading city, but later Antwerp became the great emporium for Northern Europe. War against Philip II., who attempted to wipe out Protestantism in the Netherlands, was disastrous to Antwerp. Her most energetic burghers emigrated and settled largely in the northern provinces (Holland). After Spain had lost her naval supremacy to England by the destruction of the Spanish Armada (1588), Holland attempted to develop her East India trade by sending out several expeditions. Smaller companies were united into the Dutch East India Company in 1602 with a state charter granting it a complete monopoly of East Indian commerce. In a few years many of the best possessions of the Portuguese and English in the East came under its control. In 1621 the Dutch West India Company was chartered to carry on trade along the west coast of Africa and in the New World. Its most important settlement was at New Amsterdam (now New York). The success of this company was not marked. The independence of the Netherlands was recognized by the Peace of Westphalia in 1648. At that time she was the first commercial power of Europe, with her trade centered at Amsterdam. The Dutch did not long maintain their supremacy. Much of their trade was diverted to English ships by the English Navigation Acts and by their naval defeat at the hands of the English in 1672. The Dutch also suffered in warfare with other powers and from internal dissensions.

France. — The great discoveries were at first unfavorable to the growth of French commerce because, by changing the routes of trade, they cut off much of her overland traffic between Northern and Southern Europe. The great French fairs and the port of Marseilles were most disadvantageously affected. The great wars during the sixteenth century also handicapped the growth of French commerce. During the one hundred years following the latter part of the sixteenth

century, however, France made great industrial and commercial strides, largely because of the energy of her great statesmen — Sully, Richelieu, Mazarin, and especially Colbert. This is the classic period of Mercantilism, and the name of Colbert has been so prominently associated with this system that many have given it the name of Colbertism. Mercantilism as a domestic policy was especially prominent in the measures enacted by this great statesman. The immigration of skilled craftsmen and the formation of new industries were encouraged. The aim was industrial self-sufficiency, and this was in a measure realized by the removal of inland tolls and the enactment of a national customs tariff. Taxation was lowered and equalized, canals and bridges built, the navy subsidized, and the transit trade encouraged. Commercial companies were organized after the plan of the English and Dutch companies, and colonies were established in all parts of the world, especially in North America and in India. At the time of the death of Colbert (1683) France was the foremost commercial and political power in Europe. Then followed several decades of expensive wars, costly courts, unjust taxation, and religious intolerance under Louis XIV., from which France never recovered. In her struggle with the English for commercial supremacy during the eighteenth century she lost most of her colonies, including Canada, which was surrendered to England at the close of the Seven Years' (French and Indian) War in 1763.

England. — England's industrial condition was primitive until about the fifteenth century. She exported raw materials, especially wool and minerals, and imported manufactures. Her commerce and navigation were largely controlled by foreigners, especially Jewish, Dutch, and Hanseatic merchants. Her industrial development began to be more active in the fifteenth century. She engaged energetically in foreign trade, made important maritime discoveries and settlements in both

hemispheres, and organized important trading companies, the most famous being the East India Company (1600), after which Dutch, French, and other trading companies were largely modeled. England's industrial and commercial progress was checked during the first half of the seventeenth century by the civil and religious wars under the Stuarts; but, during the century following, her commercial and industrial expansion was continuous. Mercantilism held full sway and found expression in laws encouraging the growth of home manufactures by means of customs duties or import prohibitions and in inducements offered skilled workmen to settle in England. The principal aim of England's foreign commercial policy was to make her merchant marine the carrying power of the world. The most important legislation which aimed to realize this is found in the Navigation Acts already referred to, passed in the middle of the seventeenth century. The international commercial rivalry culminating in the latter part of the eighteenth century resulted in England's becoming the virtual dictator on the high seas and the possessor of important colonies in all parts of the world. Her vast colonial empire, founded upon the Mercantile idea that the purpose of the colonies was to enrich the mother country with little regard to the interests of the colonies, was more or less shattered when subjected to the changed economic conditions and political ideals at the close of the eighteenth century.

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A. Consult bibliography of Chapter I.

D. DAY, *History of Commerce*; *Cambridge Modern History*, Vol. I; BASTABLE, *Commerce of Nations*, Ch. 4; CUNNINGHAM, *Growth of English Industry and Commerce* (Modern Times), Part I; SCHMOLLER, *Mercantile System*; LIST, *National System*, Book III; ROSCHER, *Political Economy*, Vol. II, Appendix II; INGRAM, *History of Political Economy*, 36-54; HANEY, *History of Economic Thought*, Ch. 7; SMALL, *The Cameralists*; NICHOLSON, *Principles of Political Economy*, Vol. II,

pp. 235-247; COSSA, *Introduction to Study of Political Economy*, 193-210; SMITH, *Wealth of Nations*, Book IV, Chs. 1 and 3; HEWINS, *English Trade and Finance*; BLANQUI, *History of Political Economy*; SARGENT, *Economic Policy of Colbert*; SEELEY, *Expansion of England*, Ch. 4; MUN, *England's Treasure*; NORTH, *Discourses*; ARMITAGE SMITH, *Free Trade Movement*, Chs. 1 and 2; LOCKE, *Some Observations*; TAUSSIG, *Selected Readings in International Trade and Tariff Problems*.

SUGGESTIVE TOPICS AND QUESTIONS

1. How did the invention of gunpowder, the compass, and the printing press influence commercial development?

2. Make an outline of the most characteristic Mercantilist legislation during the sixteenth, seventeenth, and eighteenth centuries in any one of the following countries: Portugal, Spain, Netherlands, France, Germany, England. DAY, *History of Commerce*, and industrial histories.

3. Are there any examples of such restrictions in early American history? FISKE, *Critical Period of American History*; JOHNSON, *Domestic and Foreign Commerce*.

4. Are you a Mercantilist? Would you be a Mercantilist were you living in Western Europe two hundred years ago? ROSCHER, *Political Economy*, Vol. II, Appendix II, Sec. 1.

5. Did the employment of Mercantilist policies have an important effect upon the distribution of the precious metals? HANEY, *History of Economic Thought*, 108; DAY, *History of Commerce*, 170.

6. Summarize Adam Smith's criticism of Mercantilist notions regarding money and the balance of trade. TAUSSIG, *Selected Readings*, 221-243; SMITH, *Wealth of Nations*, Book IV, Ch. 1; compare MILL, in TAUSSIG, *Selected Readings*, 52-62.

7. If the gain from foreign trade is not measured by the excess of value of exported merchandise over imported merchandise, how is it to be measured? TAUSSIG, *Selected Readings*, 76-81 (CAIRNES) and 20-28 (J. S. Mill).

8. Outline carefully the argument of the Mercantilist, Charles King, reprinted in MARSHALL, *Materials for Elementary Economics*, pp. 585-590. Note parallels in recent and current discussions, e.g. MARSHALL, *Materials*, 590; HAMILTON, *Current Economic Problems*, 278, 284-287, 292-293; TAYLOR, *Principles of Economics*, 215-219.

9. Why did the American states continue to trade chiefly with Great Britain after the Revolutionary War? JOHNSON, *Domestic and Foreign Commerce*, Vol. I, pp. 125-127.

CHAPTER III

FREE TRADE

Political and Economic Revolt against Mercantilism. — From the foregoing chapter it is clear that Mercantilism was the economic expression of an effort to offset the decentralizing tendencies characteristic of the Middle Ages. The conditions which characterized the beginnings of the modern period demanded strenuous state activity along national lines, but in proportion as effective political and economic nationality was realized the need of governmental activity of the Mercantilistic variety lessened, and the accumulated network of antiquated regulations tended to retard commercial and industrial expansion. A political and economic reaction arose both in England and on the Continent during the eighteenth century. The political reaction received its inspiration from English philosophers, especially John Locke, was popularized by French writers, especially Rousseau and Voltaire, and received its classical expression in America and France — in the former country in the Declaration of Independence, wherein it is stated “that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness;” — in the latter country under the banner of the great Revolution of 1789 — “liberty, equality, and fraternity.” The economic reaction which was centered in France received the name of the Physiocratic System, while a similar movement, centered in England, became known as the Free Trade System.

The Physiocratic System. — The founder of this system was the French economist, Quesnay, while Turgot, the French statesman, was its most brilliant expositor. There were two distinct ideas of this school, both being opposed to Mercantilism. In the first place the Physiocrats believed in the superiority of agriculture over commerce and industry. They regarded agriculture as the only source of increments of wealth because it alone produced a "net product," that is, an excess over the cost of production. Farmers and land owners alone were productive; all other classes were unproductive or "sterile." In the second place the Physiocrats held to the belief in a natural order of society and thought it useless to devise laws and regulations. They proclaimed the doctrine that things should be let alone (*laissez-faire, laissez-passer*). The first of these principles was an exaggeration and did not long survive as an important economic doctrine. The second principle, however, became dominant in political economy for nearly a century. Although the Physiocrats had many gifted adherents they never obtained a popular hold even in France itself.

The Free Trade System. — In England, where commerce and industry were more important economic factors than on the Continent, the reaction against the restrictive system took a somewhat different form. This movement, as already stated, became known by the name of Free Trade. Its most important forerunner was David Hume, but its most prominent expositor was Adam Smith. His epoch-making book, *Wealth of Nations*, which appeared in 1776, is the gospel on which modern political economy is based. Smith's entire work is pervaded by the spirit of individualism. The Mercantile System had, he claimed, favored the producer at the expense of the consumer. Both should be cared for. He agreed in the main with the *laissez-faire* principle of the Physiocrats, but did not agree with them that agriculture

alone was productive. He emphasized the importance of commerce and industry. Free trade was a necessary condition of economic development because it enabled every land to produce those things which it could produce at least cost. He refuted the idea of the Mercantilists, that trade is not mutually advantageous to both parties. If nations or individuals exchange the things they can produce at least cost for other goods less easily produced, society as a whole gains thereby. Furthermore, every sane man knows his own interest and if left to himself will strive to maintain or better his economic condition. His prosperity is not only an individual, but also a social, gain.

England. — The principle of non-interference in trade and industry, taught in the *Wealth of Nations*, was quite in keeping with the changed and changing economic conditions in England at the close of the eighteenth and the beginning of the nineteenth century. The American Revolution had largely discredited her Mercantilist policies and demonstrated the futility of retaining them. England lost the political control over her most important colonies in the New World, although economic dependence was largely retained. A movement in the direction of *laissez-faire* showed itself in mollifying changes in her colonial policy, in the tariff reforms inaugurated by the younger Pitt, and in her commercial treaty in 1786 with France. This movement, however, was very much disturbed by the great political revolution centered in France and the great industrial revolution focused in England. In the few decades following 1760, English industry was completely revolutionized by a series of remarkable inventions, especially in the textile and iron manufactures, as well as in the general application of steam to industry and to land and water transportation. Some of the results of this revolution were the supplanting of home industry by the factory system, the removal of restrictions on domestic industry, such as those

regulating wages and the price of commodities, and the establishment of competition as the ruling economic principle. England became the dominant industrial nation of the world. The French Revolution and the Napoleonic wars (1789-1814) favored her industrial supremacy by diverting the energies of the people on the Continent from peaceful pursuits and by making, for a time, commerce and navigation more profitable than manufacturing to the great neutral nation — the United States. It is easy, therefore, to understand that the growing manufacturing interests of Great Britain looked with favor upon the policy of free trade since such a policy would tend to cheapen her manufactures and thereby strengthen her industrial supremacy, both at home and abroad, by permitting the free importation of raw materials used in manufactures and of food for the working classes. Their case was vastly strengthened by the fact that England had become a grain-importing instead of a grain-exporting nation. The Corn Law of 1815, which, in the interest of the landlords, tightened the restrictions upon the importation of grain, seemed an anachronism. Therefore the repeal of the Corn Laws became the chief objective, although they were but part of a vast restrictive system and their removal was only one feature of the movement for the general liberation of foreign trade. The first modification of the English tariff occurred between 1820 and 1830 under the leadership of Huskisson. The Anti-Corn Law League was formed in 1838 by Richard Cobden, secretary of the chamber of commerce at Manchester, and, under the inspiration of its leader, carried on a strenuous agitation in England which led to a practical repeal of the Corn Laws in 1846 under the premiership of Peel. The finishing touches were given by the repeal of the Navigation Laws in 1849, the Coastwise Navigation Law in 1854, the negotiation of the commercial treaty (known as the Cobden treaty) between England and France in 1860, and later legis-

lation during the first premiership of Gladstone (1868-1874). Thereafter England made practically no use of customs duties, excepting those of a purely revenue character, until the World War.

The United States. — Broadly speaking, the dominant principle in American commercial politics up to the period of the Civil War, excepting the period from about 1815 to 1830, was *laissez-faire*. Early protection, so far as it did exist, referred more to navigation than to industry. There were at first but few manufactures, while the most important interests were shipping in New England and agriculture in the Middle and Southern states. As the only important neutral nation during the Napoleonic wars, the United States became the great carrier nation of the world, but when the British Orders in Council and Napoleon's Berlin and Milan decrees drove American ships into American ports, and Jefferson's Embargo and the War of 1812 detained them there, our harvest of neutrality came to an end and our interests became more diversified. Surplus American labor and capital were diverted from commercial into agricultural and industrial pursuits. The agricultural development expressed itself in a westward movement of the population; the industrial, in the rapid growth of manufactures, especially of the textiles in New England. The effort to protect the latter from the ruinous competition of British manufacturers gave birth to the first era of industrial protection in the United States from about 1815 to 1833. From the latter date until the Civil War (excepting a slight temporary reaction from 1842 to 1846) the characteristic feature of the American commercial policy was a tariff whose primary purpose was that of revenue.

Continental Europe. — The economic situation in Western Continental Europe during the first sixty years of the nineteenth century differed from the conditions both in the United

States and in England. In the United States, broadly speaking, the free-trade idea was generally favored by all classes excepting in the decade or so following the close of the War of 1812. In England it found favor among the industrial and commercial classes, but was opposed by the agriculturists. On the Continent it received at first only an academic acceptance. The Napoleonic wars had left European governments in a state of bankruptcy. Many old and new industries, which had been stimulated by the restrictive "Continental System" of Napoleon, found themselves subjected to the ruinous competition of England at the close of the war. The effect on the Continent was similar to the effect in the United States — a general enhancement of customs duties. This was especially marked in some countries like France, while the movement in Germany was more moderate and culminated in 1834 in the formation of the German Zollverein, or tariff union, of most of the German states. Nevertheless, the industrial revolution in England and the lowering of her import duties on raw materials tended to enlist the Continental agrarian classes in favor of free trade, since they, like the cotton planters in the United States, wanted no restriction on their sales of agricultural products to England and their purchase of English manufactured goods in return. Likewise English economic theory invaded the Continent. The official and academic classes accepted very generally the doctrine of the English school of political economy as expounded by Smith and his followers, among whom Ricardo and Mill were the most conspicuous. These interests, combined with the efforts of the agriculturists and of those industrialists who had little to fear from English competition, brought about a reaction in the direction of free trade which found expression in the Cobden commercial treaty between England and France in 1860. This was followed by similar treaties negotiated by England and France

with other European countries. These treaties provided for a marked lowering of customs duties, and it was presaged by many that the "era of free trade" had become, or was about to become, the universal policy. Cobden himself seemed to have no doubt on this point, for after signing the treaty which bears his name he is reported to have said: "You might as well tell me the sun will not rise tomorrow as that foreign nations will not adopt Free Trade in less than ten years from now." The dream of the free traders has not been realized. In less than ten years from the signing of the treaty of 1860 there were signs of a reaction in the direction of higher duties.

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Corn Law League, Vol. I, pp. 49-77; HOLLAND, *The Fall of Protection*, 1840-1850.

SUGGESTIVE TOPICS AND QUESTIONS

1. What free-trade arguments were used by the following Englishmen? (a) Huskisson? CUNNINGHAM, *Free Trade Movement*, Ch. 2; (b) Peel? HANSARD, Vol. LXXXIII, pp. 239-284, 1003-1024, 1025-1043; LXXXIV, 450-456; THURSFIELD, PEEL, Ch. 10; CUNNINGHAM, *Free Trade Movement*, Ch. 2; (c) Cobden? CUNNINGHAM, *Free Trade Movement*, 169-189; COBDEN, *Speeches on Questions of Public Policy*; MORLEY, *Life of Cobden*; (d) Gladstone? *North American Review*, January, 1890, pp. 1 *et seq.*

2. Do economic conditions change in a country? Are we justified in changing our opinions on economic subjects when conditions change? Are we justified in changing such opinions when conditions have not changed?

3. Why did each of the following statesmen change his views in regard to the tariff? (a) Huskisson? See references question 1 (a); (b) Calhoun? *Works of Calhoun*, Vol. II, p. 163, Vol. VI, p. 1, Vol. IV, p. 171; (c) Webster? TAUSSIG, *Selected Readings*, 505-516; *Works of Webster*, Vol. III, pp. 94, 228, 528; CALLENDER, *Readings in Economic History*, 503-514; (d) Bismarck? OGG, *Economic Development*, 303-305; ASHLEY, *Modern Tariff History*; (e) Chamberlain? MACKINTOSH, *Joseph Chamberlain*, 387-392, 404-407; *Guntton's Magazine*, 26: 109-117; *Living Age*, 239: 641.

4. How does Ricardo's view regarding the advantages of free trade compare with the view held by Adam Smith? (RICARDO, Ch. 35.) with that held by J. S. Mill? (MILL, Book V, Ch. 10.)

5. In what sense may free trade in England be said to be negative protection?

6. Might you believe in the theory of free trade and yet be a protectionist? Explain.

7. Summarize and explain American tariff sentiment and policy during the Revolutionary War. What factors changed these after the war? STANWOOD, *American Tariff Controversies*, Vol. I, Ch. 2; ELIOTT, *Tariff Controversy*; HILL, *First Stages of Tariff Policy*.

8. What has the term "free trade" meant at different periods? BASTABLE, *Theory of International Trade*, 128; PALGRAVE, *Dictionary*; encyclopedias, e.g. *New International*, *Britannica*; *Webster's Dictionary*.

9. Just what was the attitude of the Physiocrats toward trade? How is this attitude to be explained? GIDE AND RIST, 27-33.

10. Under what circumstances would Adam Smith approve (a) import duties? (b) retaliatory duties? (c) export duties? (d) sudden transition to free trade? Did he expect his principles to be adopted in England? *Wealth of Nations*, Book IV, especially Ch. 2.

11. What were the Corn Laws? Aside from their repeal, what other tariff changes did the free-trade movement in England involve? Make a careful list of the factors in the English situation which explain the sweeping victory of free trade. Are there any parallel factors in the American situation to-day?

12. Make a careful summary of Gallatin's Free Trade Memorial. TAUSSIG, *Selected Readings*, 480-505; TAUSSIG, *Tariff State Papers and Speeches*.

CHAPTER IV

PROTECTION

General Character of Protection. — Protection is the policy of encouraging home industries usually by the imposition of customs duties or by bounties paid to domestic producers. It is therefore opposed to the principle of free trade. It is sometimes characterized as a return to Mercantilism. Under protection, however, export duties are largely done away with, while prohibitions, either on exports or on imports, are the exception and not the rule. The level of duties is lower than under Mercantilism, and discriminating navigation laws, bounties, and subsidies are less frequently employed. War, often resorted to under Mercantilism in order to promote or repress commerce, is now less often used for such purposes. More peaceful means are at hand. Great advances have been made in international law. Better means of transportation and communication, improved banking facilities, more reliable statistical information, more accurate knowledge regarding international, political, and economic conditions, and in general a wider and better understanding and appreciation of social and economic laws make Mercantilism an impossibility.

Causes of Growth of Protection. — The growth of protection, almost universal during the past few decades, is explained on several grounds. In the first place it is due in part to a general reaction against the purely negative character of English political economy. This reactionary movement originated in Germany about the middle of the last

century, and its advocates became known as the "historical school." It differs from the "classical," or free-trade school, by interpreting the complex phenomena of industrial life in the light of history rather than by deductions based on isolated facts. It also regards the state as an ethical factor and as an organ for the promotion of all social aims which cannot be adequately realized by voluntary individual effort, rather than as an institution whose functions are merely to protect life and property. In other words, while the classical school stands for individualism and free trade, the historical school represents national and protective tendencies.

The second factor which helps to explain the development of protection is a number of costly wars during the 60's and 70's, especially the American Civil War and the Franco-Prussian conflict. Wars arouse the sentiment of nationality and are extremely costly, or, as one writer expressed it, "the exigencies of finance give support to the sentiment of protection." In times of war all forms of taxes are submitted to with little opposition, but upon the return of peace when tariff reductions are demanded these are generally made along the lines of least resistance, that is, on "unprotected articles," or on such as are not produced at home.

Finally the growth of protection is due, in a large measure, to intense international competition caused by greatly improved means of transportation and communication coupled with the enormous industrial development, especially in Western Europe, and with an equally prominent agricultural development in the central part of the United States, in Eastern Europe, in Argentina, and in other parts of the world. Western Europe has been deluging the rest of the world with her manufactured goods, and many countries which were attempting to develop their own manufactures have been showing resentment in the form of high import duties, while the agricultural classes of Western Europe showed a similar

resentment against the influx of agricultural products from countries which are industrially less advanced.

Main Arguments for Protection. — England has been the classic land of free trade, not only because *laissez-faire* finds its most practical application in British politics of the first part of the nineteenth century, but also because British writers — Smith, Ricardo, Mill, and others — are among its best expositors. Similarly the United States is the classic land of protection because the policy has been tried in this country in all its phases, and its best exposition has perhaps been given by American writers — Hamilton, List, Carey, and Patten. The second named was, of course, a German and is mentioned here only because he spent several years of exile in the United States and received his inspiration in part from the writings of Hamilton and from the economic policy of the United States, for his residence in this country (1825-1830) was during the high-water mark of the early period of American protection.

Various arguments have been advanced from time to time in favor of protection. The national independence argument, based upon the idea that a variety of industries is desirable for a country in order to make a nation economically independent (a condition especially desirable in case of war) and to develop its spirit of nationality, was the keynote of Hamilton's argument. It was advanced at a time when the American federal government had hardly passed the experimental stage, and the development of a stronger central government was of the greatest necessity. Hamilton's argument was, therefore, more essentially political than economic.

American industries that had sprung up during the period of the Embargo, the Non-intercourse Act, and the War of 1812 were protected by the tariff of 1816 and by later tariffs largely on the ground that they were infant industries and needed the temporary fostering care of the government in order to

tide over domestic disadvantages in production. The infant industry argument was also the keynote to List's writings, and the argument which he used effectively in his advocacy of a German tariff union, or Zollverein, which was formed, as previously stated, in 1834 and which became the economic forerunner of German political union.

The vested interest argument, the plea that it is better to leave well enough alone and not disturb existing vested rights, has been employed probably in support of every customs tariff act that ever came into the arena of discussion. This argument is especially prominent at the present time in the United States, and its advocates are generally dubbed "Stand-Patters."

The home-market argument was especially emphasized by Henry Clay, and was designed to persuade the new agricultural West that its best markets would be found in the North and East by fostering the manufacturing interests of the latter. This argument has been effectively employed since the time of Clay because the American domestic market has become the greatest market in the world.

Since the Civil War, only one new argument of importance in favor of protection has become prominent — the so-called pauper labor argument. At an earlier period in American history it used to be maintained that protection was necessary because wages were high. The existence of high wages in the United States handicapped American manufactures, and protection was necessary in order to equalize this disadvantage. Now the argument is inverted. It is claimed that protection causes high wages and its withdrawal would mean the pauperization of American labor by making it impossible for manufacturers to pay high wages.

The United States, 1789-1883. — As has been stated, the early phases of American protection related to navigation protection inaugurated in 1789, and industrial protection which

followed at the close of the War of 1812. The former was calculated to protect the shipping interests of New England, while the latter sought primarily to shield from foreign competition the manufacturing interests of the East. The need of protection to both these interests lessened in the latter part of the 1820's, and during the succeeding thirty years (excepting a slight reaction from 1842 to 1846) the policy of the United States was essentially one of free trade. There was a panic in 1857, and the Civil War beginning soon after led to a demand for enormous revenues which was met by a resort to a comprehensive system of both import duties and internal taxation. The war developed a strong sentiment of nationality in the North, and this was intensified by the hostile attitude of certain European interests which were unfavorably affected by the struggle. These conditions, together with the withdrawal from the Union of the agricultural South, left the industrial classes of the North the dominant factor in American politics. Then, too, in the years following the war the country was too much engrossed in questions of reconstruction to discuss the tariff. The result was that in lessening the burdens of taxation those most interested in protection succeeded in having the reductions made in internal taxes and in those import duties which were levied on articles for the most part not produced in the United States. In the early 70's, after the disturbed conditions following the Civil War became more settled, an agitation for tariff reform led to very moderate reductions in the Tariff Act of 1872, but owing to the panic of the following year a reaction set in which found expression in the Tariff Act of 1875. A return of prosperity, however, in the latter part of the 70's, owing in a large measure to good harvests in this country and poor harvests in Europe, caused a surplus of revenue and another agitation for tariff reform. This led to the appointment of a tariff commission in 1882 and a new tariff

law in 1883 with moderate reductions based in some measure upon recommendations made by the commission.

The United States, 1890-1897. — The slight reductions in the act of 1883 were unsatisfactory to the advocates of freer trade, and the tariff issue was forced to the front in the presidential campaign of 1888, largely because of Mr. Cleveland's annual message of the preceding year which was devoted entirely to the tariff question. He committed the Democratic party to a policy of a tariff for revenue, and on that issue the Republicans elected Mr. Harrison as President. They interpreted their victory as an indorsement of the policy of protection and passed the Tariff Act of 1890, known as the McKinley Bill, which had the twofold purpose of reducing the large treasury surplus and increasing the protective duties. It accomplished both these results in a marked degree. As regards the former, it was more than successful because of very liberal appropriations by Congress and because of the financial panic in the years following 1892. In fact it created a revenue deficit. As regards the latter, it may be said to represent a decided advance both as to the height of duties imposed and as to the range and scope of commodities to which the protective principle was applied. The country showed its disapproval by defeating the Republican candidate and electing Mr. Cleveland in 1892. The Democratic platform of that year went so far as to declare a protective policy unconstitutional, but Mr. Cleveland and the majority of his party certainly did not represent such a radical view. In fact the Tariff Act of 1894, known as the Wilson-Gorman Bill, not only did not meet the views of the radical element in the Democratic party, but was equally unsatisfactory to the more moderate element. The President allowed it to become a law without his signature. The abolition of the duty on wool seemed to be about the only radical feature of the law. Other changes were mostly in the direction of lower duties,

but the measure was highly protective and the rates yielded an average of over forty per cent on dutiable articles and over twenty per cent on total imports. Such was the law under a Democratic president and with the Democrats in a majority in both houses of Congress. In 1896 the presidential issues were primarily the silver question and secondarily the question of the tariff. The Republicans succeeded in electing as President the champion of protection, Mr. McKinley, and the first thing the party did upon coming into power was to pass the Dingley Tariff Act of 1897. From a financial standpoint its purpose was to raise revenue in contrast with the act of 1890, the purpose of which was to reduce it. Both acts were similar in having protection as a main purpose. It was thought in 1890 that the acme of American protection had been reached, but the act of 1897 in many respects far outreached the law of 1890 as a protective measure.

The Payne-Aldrich Tariff, 1909.—The Dingley Act remained in force twelve years. Continuous Republican supremacy, general prosperity, and the diversion of popular attention to other issues after the Spanish War, conspired to give it long life; but even these favoring circumstances did not prevent the steady growth of sentiment in favor of more moderate legislation. By 1908 the demand for revision had become irresistible. Many factors contributed to this growing sentiment: agitation against the abuses of "big business" and the belief that the tariff fostered domestic monopolies; changing industrial conditions which had increased the interest of many manufacturers in foreign markets for their products and in cheaper raw materials from abroad; belief that our high tariff barriers led foreign countries to hostile tariff legislation against our exports; growing feeling among agricultural classes that they did not share fairly the benefits of protection; increasing interest in conservation of natural resources; rising cost of necessities; and greater sensitive-

ness to any form of special privilege. At the same time public revenue was proving inadequate to meet the rising expenditures, especially in view of the industrial depression of 1907.

As a result of the election of 1908, the Republican party retained control of the executive and legislative branches of government. Their platform had declared that "the true principle of protection is best maintained by the imposition of such duties as will equal the difference between the cost of production at home and abroad, together with a reasonable profit to American industries." Pushed to its logical conclusion, this would mean prohibition of foreign trade; but it was popularly accepted as pointing to a lower level of duties through reduction of excessive rates. The Payne-Alldrich Act of 1909 was the legislative outcome. It was "less aggressively protectionist" than the acts of 1890 and 1897. Many rates were reduced, but many were also raised, and the general level was not materially changed. Disappointment and protest were widespread.

-The Underwood Tariff Act, 1913. — The tariff was a prominent issue in the elections of 1910 and 1912 which brought the Democrats into full control of the federal government; and the first important legislation under the new administration was the Underwood Tariff Act of October 3, 1913. This act was characterized by liberal extension of the free list and general reductions of duties; but it was by no means a free-trade measure. The basic rate on woolens, for instance, was 35 per cent, on silks 45 per cent, and on earthenware and crockery 35 to 55 per cent; and the average *ad valorem* on all dutiable commodities imported proved to be about 33 per cent in the first fiscal year of the law's operation. It represented an attempt to adjust protective duties in accordance with a "competitive principle" designed to enable domestic producers to compete on even terms with foreign

producers and to stimulate them to efficiency, economy, and enterprise. In essence, this was not unlike the "true principle" enunciated by the Republicans in 1908; but its psychology was better and it was more closely followed in 1913 than was the avowed principle in 1909.

The Underwood law remained the basic American tariff measure for nine years. Even American participation in the World War did not bring the revolutionary changes in tariff rates which had accompanied the other great wars in our nation's history. The income tax features of the law were elaborated into a system of internal revenue taxes which quite overshadowed import duties as a fiscal resource. The regulation of war-time trade was effected, not through readjustment of tariff duties, but through a licensing system under which such goods as the President might designate could not enter or leave the country without specific official sanction. Minor changes of a protectionist character were embodied in the act of September 8, 1916, and were designed to encourage the dye industry and to meet the dumping problem more effectively.

The Post-war Tariff Situation in the United States. — That higher tariff rates should be enacted after the war seemed inevitable. The tariff tradition was deeply rooted, both as an industrial policy and as a "painless" source of federal revenue. The war left not only an offensive war-tax system for revision, but many industries created or greatly expanded by war clamoring for protection. Their appeal found response in the infant industry argument, the vested interest argument, and the quickened enthusiasm for diversified industries as a measure of national defense. The war had brought to the United States a favorable balance of trade passing the dreams of Mercantilists, and restriction of imports seemed the most promising means of conserving this balance as fully as possible. "Dumping," especially from countries with depreciated cur-

rencies, was regarded as a peculiar menace. By 1920 the farming interests were hard hit by declining prices, and industrial depression was capitalized, as usual, by the advocates of higher protective duties. In the November election, accumulated grievances against the Wilson administration resulted in the overwhelming victory of the Republicans. The following May, an emergency tariff law was enacted, placing fairly high duties on a long list of agricultural products and an embargo on sodium nitrate, dyes and dyestuffs, and synthetic organic drugs and chemicals, and reënforcing the safeguards against dumping. These provisions, originally enacted for a few months, were later made effective until a permanent tariff law should come into operation.

The framers of a permanent high tariff law, however, had by no means clear sailing. They encountered the opposition, not only of importers and of manufacturers who were more concerned about cheap raw materials and enlarged foreign markets than about foreign competition, but also that of important disinterested elements in both political parties who felt that high tariff barriers were altogether inadvisable in view of America's present national and world situation. There was widespread conviction that the tariff policy adopted should square with other important features of commercial and financial policy and that high barriers against imports would militate against the success of projects for promoting export trade and developing an American merchant marine, would cut off from the European debtor nations a prime resource for meeting payments on American war loans, and would provoke retaliation, tariff wars, and international ill-will. To these considerations were added the perplexities growing out of the unsettled industrial and financial conditions throughout the world. As one cabinet member put it: "The very basic condition on which a tariff is built — the cost of manufacturing in various European countries with

relation to our own cost of manufacturing and the value of the currency of the various European countries with relation to the value of our own currency — is at the present moment as fluctuating as quicksand." Nevertheless, suggestions that permanent revision await more settled conditions went unheeded. Final agreement on a tariff measure was not reached, however, until more than a year after its introduction in the House.

The Fordney-McCumber Tariff Act, 1922. — As approved on September 21, the tariff of 1922 embodies a higher level of protective rates than any of its predecessors. It throws special safeguards around certain war-stimulated industries, including those making coal-tar products and dyestuffs, glass, scientific instruments, and laboratory apparatus. To placate the farmers, an elaborate schedule of import duties on agricultural products is combined with the free admission of potash, agricultural implements, and other farmers' supplies, which is reminiscent of the "farmers' free list" in the tariff of 1913. Equalizing the cost of production at home and abroad is declared to be the underlying principle of this law; and the President is empowered to raise or lower individual rates when, upon investigation by the Tariff Commission, such adjustment is found necessary to equalize the "differences in costs of production in the United States and the principal competing country." Also in accordance with findings of this commission, the President is authorized to resort to additional penalty duties or even to exclusion of commodities in case of unfair methods of competition or importation, or of discrimination against American exports. (See Chapter VIII *infra*.) These provisions, granting executive discretion in respect to equalizing costs and meeting unfair methods and discriminatory treatment, constitute the flexible features of the new law and one of its outstanding characteristics. It is also noteworthy for improved form, phraseology, and arrange-

ment and for the thoroughgoing revision of customs administrative law which is incorporated with it.

France. — The three factors referred to as explaining, in a large measure, the protection reaction during the past few decades — wars, changed industrial conditions, and the rise of the “historical school” of economists — affected the commercial policies of European countries in much the same way as they affected that of the United States, although the changes were not equally marked in all countries.

The Franco-Prussian War arrested the free-trade policy in France, where it never had a popular hold, but represented rather the enforced views of Napoleon III and a majority of French economists, who then, as well as now, were adherents of the English school of political economy. The need of revenue was imperative not only because of the expenses of the struggle, which included a war indemnity to Germany of nearly \$1,000,000,000, but also because of the cost of reconstruction and an annually increasing expenditure for general state purposes. French commercial politics since 1871 registers a constant augmentation of protection, not only in the form of enhanced import duties, but also in the shape of discriminating tonnage duties, bounties on shipping, the shipping monopolization of trade between France and her colonies, etc. Her protection at first was largely to secure her manufactures against foreign competition, but pressure for agricultural protection followed the depression of 1873, the worldwide fall of prices (1873-1895) and the growing competition of American farm products. Import duties on grain were successively increased during the 80's, and a notable feature of the Méline tariff of 1892 was the measure of protection accorded to agriculture. The tariff of 1910 brought only minor changes in agricultural rates, but materially increased the duties on manufactures. At the outbreak of the World War protection was perhaps as strongly rooted in France as in

almost any country, being favored by a large majority of nearly all classes of agriculturists and manufacturers. Most of the French economists, however, showed little or no enthusiasm for this doctrine.

Germany. — Protectionist reaction in Germany did not take place as early as in France. In fact, for several years after the Franco-Prussian War duties were generally lowered, the year 1877 registering the low-water mark in German free-trade tendencies. Finally, several years of industrial depression, beginning with the year 1873, followed by a series of poor harvests at home and good harvests abroad, which changed Germany from an agricultural exporting to an agricultural importing country, united a large majority of the agrarians and many classes of manufacturers in a campaign for protection. Germany, too, was the home of the "historical school," and the majority of her economists had become protectionists. This movement found legislative expression in a series of tariff enactments begun under Bismarck in 1879 and culminating in 1890 with the resignation of the Iron Chancellor and the appointment of Caprivi. Bismarck's commercial policy had especially protected agricultural interests. Caprivi stood for more moderate protection, especially as applied to agricultural imports, and succeeded in negotiating several commercial treaties in which his economic views were incorporated. But upon the termination of the Caprivi treaties (1903), Germany inaugurated a new tariff law which became fully operative in 1906 and which has since remained the basic tariff legislation of the nation. It represented higher protection all along the line, but was particularly favorable to the agrarian classes who, though constituting a lessening minority of the total population, were effectively organized to influence national economic policy. The German situation before the World War contrasted rather sharply with that in the United States. German manufacturers produced at a comparative

advantage and needed markets abroad rather than monopoly of the home market. Hence the emphasis in tariff policy was upon protection to the farmer and upon foreign tariff favors to the manufacturer. Measured by American protectionist standards, the general level of duties was low; but those on agricultural products were nearly twice as high as those on manufactures. The former were urged in the interest of self-sufficiency, while the latter were regarded more often as "educational duties" in behalf of infant industries or as weapons with which to induce reasonable treatment from foreign countries. German economists have been sharply divided both as to the principle of protectionism and as to the importance of safeguarding the nation against overweening industrialization and dependence upon abroad for indispensable foodstuffs and materials.

Other Continental European Countries. — The general trend in Italy has not been unlike that in France. From the unification of the kingdom in 1870 the tendency was toward greater freedom of trade. Increased public expenditures led to a general tariff revision in 1877 whereby higher duties were placed on all kinds of manufactures, while a few years later the agricultural depression was largely responsible for the Tariff Act of 1887 in which agrarian protection was the distinctive feature. After that date there seems to have been no abatement in the general protectionist tendency excepting a slight reaction shown in some of her commercial treaties.

The trend of Austrian policy was similar to that of Germany. Higher protection was inaugurated in 1878 and was the continuous policy down to the World War, although some modifications were made by commercial treaties with Germany and other powers. There was this distinctive difference between German and Austrian policies — the former favored more essentially agrarian protection while the latter emphasized manufacturing protection.

Of the remaining countries of Continental Europe, Holland and Belgium might have been characterized at the outbreak of the World War as essentially free-trade countries; Greece, Switzerland, and the Scandinavian nations as countries of moderate protection with moderate protection tendencies; and Russia, Spain, and Portugal, as countries in which high protection tended to become more excessive. It should be noted, however, that in most protectionist countries of Europe the average duty was much lower than we are accustomed to consider characteristic of a protective tariff in the United States.

Post-war Tendencies in Europe. — During the war there was little change in protective tariffs. "The belligerents controlled trade by prohibitions, embargoes, licensing and rationing systems, requisitions, and government monopolies . . . the neutrals had difficulty rather in obtaining supplies than in protecting their markets against competition. Even after the armistice, abnormal conditions continued for a time to afford complete protection without recourse to tariffs."¹ But with the progress of readjustment, tariff rates have been raised in almost all countries in Europe and elsewhere. In most cases, these increases have been ostensibly to meet revenue needs or to maintain the preëxisting measure of protection despite increased prices, dislocated exchanges, and the disturbed industrial balance among nations. Nations newly formed — Czecho-Slovakia, Jugo-Slavia, Latvia, Lithuania, Poland — have also been experimenting with customs policies. It is too early to gauge accurately the significance of this post-war legislation in countries old or new. It has its cross currents; it is subject to frequent revision; some of it is plainly labeled "temporary" or "emergency"; so-called permanent measures are only gradually taking shape. But undoubtedly much of it marks a decided advance over pre-war

¹ *Annals*, 94: 180.

standards of protection. Heightened national feeling; hatred, fear, and suspicion; concern for "key" industries and increased self-sufficiency as elements of preparedness; pressure of war-fostered industries, and alarm at the prospect of "dumping" — all have come to reënforce the customary demands of special interests. Apparently war has ushered in an era of general protectionist advance; but Great Britain is the only important country in which it seems to have brought a sharp reaction in tariff policy.

The Protectionist Reaction in Great Britain. — For thirty years after the repeal of the Corn Laws, the free-trade régime went practically unchallenged in England. Agriculture prospered and manufacturers and traders still had no fear of foreign competition. Before 1880, however, came signs of a revival of protectionist sentiment which has animated a "tariff reform" movement in that country ever since. It was precipitated and stimulated by industrial and agricultural depressions which focused attention upon (1) the increasing severity of the competition of overseas foodstuffs in the home market; (2) the growing effectiveness of commercial and industrial rivals in European markets; and (3) the disadvantageous position of England as a tariff bargainer with continental powers, since under free trade she had no concessions to grant in return for those of other nations. During the last two decades of the century, protectionist policies were developing in the British Dominions, the mother country was not maintaining her old position in the trade of her colonies, and her exports in general were not keeping pace with the growth either of her population or of the exports of other countries.

The movement for a change of British commercial policy has run through several phases. At first the emphasis was on reciprocity as a means of strengthening England's position in tariff bargaining with other nations; free admission of for-

eign products was to be conditioned upon reciprocal concessions. Soon imperial preference pushed to the fore, with a view to freer and closer commercial relations with the colonies and to the greater self-sufficiency of the empire. Under the leadership of Joseph Chamberlain after 1903 the movement for protection to British industries was skillfully combined with that for preference to the colonies. His program won a notable following; but not until 1906 did the Unionist party become definitely committed to it, and thereafter, until the World War, Government was in the hands of free-trade Liberals.

The war aided the tariff reform movement. In the Dominions, it strengthened adherence to protectionism. In Britain, it "stimulated the national sentiment of the people and their interest in and appreciation of the people of the Dominions and colonies. It brought to power as members of the coalition cabinets the leaders of the movement for 'tariff reform.' And it led to the imposition of duties and of import restrictions which, though they were introduced for military reasons, were in effect protective measures and which, though avowedly temporary, presented free traders with *faits accomplis*, putting them at the disadvantage of opposing vested interests."¹

The outstanding features of recent protectionist and preferential legislation may be summarized as follows: (a) In 1915 heavy import duties were laid on clocks and watches, automobiles and motorcycles, musical instruments, and cinematograph films. These duties, at first sumptuary in purpose but now clearly protective in effect, have been retained since the war; and since 1919 colonial products have enjoyed a preferential reduction from these rates as well as from the regular revenue rates on imported tea, coffee, cocoa, sugar, dried fruits, tobacco, and alcoholic beverages. (b) An act of 1920

¹ Tariff Commission, *Report on Colonial Tariff Policies*, 832.

prohibits the importation (except as licensed) of a large class of dyestuffs, unless they have been produced within the British Empire. (c) The Safeguarding of Industries Act of 1921 authorizes a surtax of thirty-three and one third per cent *ad valorem* on foreign goods other than food and drink, when deemed necessary to protect British manufacturers against dumping. (See Ch. VII.) To safeguard certain "key" industries regarded as essential to national safety, the same law stipulates that for five years a duty of thirty-three and one third per cent *ad valorem* shall be paid on designated classes of commodities, e.g. optical glass and optical instruments, scientific glassware, laboratory porcelain, hosiery needles, scientific instruments, magnetos, tungsten, compounds of rare earth metals, and certain chemicals; but from these five-year duties, all products of the British Empire are declared exempt.

The doors of protection and preference are ajar. How wide they will swing is of course problematical. But "dumping" and "key industries" are elastic terms, and the Board of Trade is given considerable discretion.

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SUGGESTIVE TOPICS AND QUESTIONS

1. Make a careful abstract of Hamilton's Report on Manufactures. TAUSSIG, *Selected Readings*, 454-479; Tariff State Papers and Speeches; Hamilton's Works.

2. Compare the views of Hamilton, List, Carey, Greeley, and Patten. Consult their writings; also RABBENO, *Commercial Policy of the United States*; CALLENDER, *Readings in Economic History*, 546-558; TAUSSIG, *Selected Readings*, 277-299.

3. To what extent were protectionist aims considered in the framing of (a) American colonial tariffs? (*Quar. Jour. Econ.*, 7: 78); (b) the federal tariff of 1789? (HILL, *First Steps*, 108 *et seq.*; STANWOOD, *Tariff Controversies*, Vol. I. pp. 39 *et seq.*)

4. What lessons are to be drawn from the evolution of tariff policy in the Confederate States? SCHWAB, *Confederate States*, Ch. 11.

5. Is there anything about a protective tariff in the United States Constitution? (See Constitution, and *Journal of Political Economy*, 5: 40.) Has the constitutionality of protection been questioned? (See platforms of Democratic party since Civil War.) If you believed a protective tariff unconstitutional, could you conscientiously vote for protection?

6. Does a protective tariff make for conservation of natural resources? FETTER, *Modern Economic Problems*, 212-213.

7. In its broadest aspects, what does protectionism include? GRUNZEL, 125-127.

8. Is the attempt to base tariff rates upon difference between cost of production at home and abroad practicable? GRUNZEL, 151-153;

CULBERTSON, *Commercial Policy*, Ch. 7; TAUSSIG, *Free Trade Tariff, and Reciprocity*, Chs. 7 and 8; *American Economic Review, Supplement*, March, 1911, pp. 19-41.

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10. Summarize Richard Schuller's discussion of the effect of imports on domestic production. TAUSSIG, *Selected Readings*, 371-392.

11. Trace the development of the labor argument for protection in the United States. To what extent is it valid in its present form? (MANGOLD, *Labor Argument*; TAUSSIG, *Free Trade, Tariff and Reciprocity*, 48-70; *Atlantic Monthly*, September, 1912, p. 338; CARVER, *Principles of National Economy*, 457-460.) What is the attitude of manual laborers in Australasia toward protection? (BRYCE, *International Relations*, 81-83).

12. Show concretely how war diversification of American industry has strengthened the appeal to the infant industry argument. What considerations should guide in deciding whether war-born industries should be fostered by protective legislation? CULBERTSON, *Commercial Policy*, Chs. 2-4, 6; TAUSSIG, *Some Aspects*, Ch. 2; *Tariff Series*, No. 25.

13. Must the United States as a creditor nation modify its traditional attitude toward a protective tariff? *Annals*, 94: 37-43, 47-51 and May, 1921, p. 220-227; *Proceedings Academy Political Science*, 9: 15-38.

14. "We (the United States) have already reached the stage when we are barely self-feeding." What does this portend as to future tariff policy of the nation? *Proceedings of Academy Political Science*, 9: 37-38; *American Economic Review, Supplement*, March, 1921, pp. 38-39; *Saturday Evening Post*, 194: 21 (October 15, 1921).

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16. Russian tariff development (a) prior to World War (OGG, *Economic Development of Modern Europe*, 336-338); (b) under Soviet régime (*Commerce Reports*, especially September 25, 1922, p. 875.)

17. What have been the chief features in the development of commercial policy in Europe since the armistice? *Annals*, 94: 24-29, 175-185; *Nation's Business*, March, 1923, pp. 50-54; *Ibid.*, April, 1923, pp. 46-50; *Commerce Reports* (sections headed "Tariffs and Trade Regulations").

CHAPTER V

EXPORT, IMPORT, AND TRANSIT DUTIES

Definition and Development of Customs Duties. — Customs duties were originally taxes on trade. They were usually payments made for the use of roads, bridges, ferries, harbor facilities, warehouses, weights and measures, or for the protection of goods and merchants on the highways. According to Adam Smith they “seem to have been called customs as denoting customary payments which had been in use from time immemorial.” Sometimes these duties were levied at the boundary, as, for example, in an insular country like England, where from very early times there was an export duty on wool; but more often they were collected at the gates of a town, at various places of deposit, or at other convenient localities. Fiscal requirements were almost the sole reason for the levying of these duties. In the course of time, as states became more consolidated, these innumerable taxes became more and more of a hindrance both to political and economic development. The result was a tendency toward the elimination of restrictions and the unification of taxation out of which has developed in most modern civilized states the twofold system of taxation — internal taxes and customs duties. The former include that part of the income of a country derived largely from general property, incomes, stamps, licenses, and excises or taxes placed on certain commodities of home production and consumption, notably on tobacco and liquors, while customs duties are taxes levied upon merchandise which passes the frontier.

Customs duties in a national sense were first developed in England, beginning especially at the time of Cromwell.¹ Colbert, as has been stated, cherished the plan of replacing the multitudinous local customs duties in France by general taxes levied at the national boundary, but this reform was not effected until the period of the Revolution. A similar movement was begun in other European countries during the latter part of the eighteenth century. In Germany it found expression in the Prussian tariff act of 1818, which was the forerunner of the German tariff union, or Zollverein, organized in 1834. In early American history taxation was entirely local in character, but this was largely modified in 1789 by the federal constitutional requirement that "all duties, imposts, and excises shall be uniform throughout the United States."

Classification of Customs Duties. — There are three general classes of customs duties: (1) import duties, or those levied on merchandise brought into a country; (2) export duties, or those levied on merchandise sent out of a country; and (3) transit duties, or those levied upon merchandise passing through one country and destined for another.

Customs duties may be either for purposes of revenue or for protection. The former seem to mean duties levied for the sole purpose of revenue, while the latter would appear to be those levied entirely for the purpose of protection. In practice, however, these terms are not used in this absolute sense, since both revenue and protection play more or less of a rôle in nearly all customs duties. It is, therefore, more correct to define revenue customs duties as those levied upon merchandise primarily for revenue and incidentally for protection, while conversely protective duties are those which are primarily for protection and incidentally for revenue.

As might easily be inferred from the preceding chapter, there

¹ On origin of customs duties in England, see LIPSON, *Economic History of England*, Vol. 1, pp. 521-524.

are two general classes of protective duties — agricultural and industrial or manufacturing. German protection, for example, has been more essentially agricultural, while protection in the United States has been principally manufacturing. Nevertheless, the characteristic feature of modern protection is that it is neither entirely agricultural nor wholly manufacturing. Intense international competition has developed a community of interests between certain branches of agriculture and industry so that in most countries we find certain agrarian and industrial interests more or less united in favor of protection.

Relative Importance of Export Duties. — Export duties formerly were much employed. Under Mercantilism it was the general policy to encourage manufactures by placing an export duty on raw materials. England, for example, at an early period levied such a duty on certain agricultural products, notably wool, and her American colonies taxed exports, sometimes with a revenue and sometimes with an industrial purpose. For some years before 1865, the Zollverein restricted the export of raw materials in the interest of German manufactures. But, later, export duties practically disappeared from the tariffs of the leading European countries. They depend for success on virtual monopoly of production, and the progress of science has made substitution more feasible and cheapened transportation has largely destroyed monopoly due to place value.¹ They still retain a place in the trade regulations of many regions, especially in Southern and Eastern Europe, Latin America, and various European dependencies. In very recent years, because of war and post-war conditions, they have taken on added significance. With some notable exceptions, as in many of the older British colonies and dominions, they constitute a regular part of European colonial policies. But they cannot be said to form an important

¹ GRUNDEL, *Economic Protectionism*, 158-161, 315, 316.

feature of the commercial policies of the great industrial nations. In the United States there is a constitutional provision that "no tax or duty shall be laid on articles exported from any state," this being a concession in favor of the South which feared lest its exportation of agricultural products might be interfered with. A similar prohibition has been placed, by federal law, upon Porto Rico and the Philippines; and the only export duties in the American colonial system are those of the Virgin Islands.

Revenue Export Duties. — In the larger number of instances, export duties are primarily for revenue. This is conspicuously true of colonial export duties. Occasionally a country levies a general duty on all articles exported; examples may be found in the one per cent rate long maintained in Turkey and in the Sudan and recently established in Palestine and in the two per cent rate in Belgian Congo. Much more commonly a list of domestic products is selected with a view to their revenue-yielding possibilities as exports. Among articles subjected to duties in the less industrially advanced countries, some of the most important are coffee, rubber, sugar, rum and molasses, tobacco, tropical fruits, woods and nuts, hides and skins from Central and South America and from the West Indies; rubber, ivory, tropical nuts and woods, sponges, and olives from Africa; tea, rice, silk, tin, tobacco, spices, shells, skins and precious stones from different parts of Asia. As a rule, if the purpose is purely revenue, export duties are laid on the most important products exported. "In countries which export large quantities of foodstuffs and raw materials, export duties are frequently adopted as an equitable method of taxing production and are regarded as a substitute for land and poll taxes."¹ This policy is particularly applicable to commodities produced almost exclusively for export, and is illustrated by the duty

¹ W. S. CULBERTSON, in *Proceedings of Academy of Political Science*, 9: 44.

on phosphate of lime exported from Algeria. Some countries collect large revenues from export duties on products of which they possess a virtual monopoly. Classical examples have long been Chilean nitrate of soda, Paraguayan yerba mate, and Spanish and Portuguese cork. Many other cases differ from these only in degree.

On occasion export duties are levied to meet extraordinary expenditures. England, for instance, placed an export duty on coal, coke, and manufactured fuel at the time of the Boer War, and fiscal needs have led nations and colonies to resort to similar expedients during the World War. Special export duties are sometimes imposed to meet stipulated items of peace expenditure, as in Salvador for support of professional schools and in Ecuador to provide a fund for the stimulation of immigration. Exports contribute to the ordinary receipts of many government treasuries, but in few countries are they made a major source of revenue. In Chile, China, and India, however, export duties have frequently yielded more than import duties; and in 1921 the customs receipts of Jugo-Slavia were about equally divided between exports and imports.

The accepted view regarding export duties appears to be that they restrict exportations except in rare cases where a country possesses a monopoly of the exported article. Even in such cases, the duties have a restrictive tendency because of curtailed consumption and stimulus to invention or discovery of substitutes. If all countries should levy an equal duty on the same commodity, its price would be raised to cover the amount of the duty and consumers would pay at least the greater part of the tax. But such a duty on any one article has never been universal and the price paid by the foreign consumer has generally been regulated by many other more important factors, so that usually the tax has been paid by the producer.

Protective Export Duties. — “Export duties on raw materials have a protective effect upon the industries using those materials somewhat the same as the effect of import duties levied upon the competitive finished products.” But protective export duties are not so numerous nor so easy to distinguish as are those of a revenue character. In some cases, indeed, a protective purpose is either avowed or evident. India, for example, taxes the export of raw hides and skins in order to foster the tanning industry whose products are permitted to leave the country duty free. To safeguard her dairy and her leather interests, Switzerland maintains export duties on cattle as well as on hides and skins. Export duties on rags long since found a place in many European customs laws for the purpose of protecting manufacturers of paper. When wood came to be used so largely in paper-making, these duties lost most of their significance and in some cases were repealed; but they still appear even in many of the newer tariffs. Several European countries, including Norway and Sweden, have placed export duties on wood and timber, partly in aid of domestic manufactures and partly with a view to conserving forest resources. Here and there export rates are devised to protect the reputation of articles exported; a case in point is the heavy export duty on uncleaned coffee imposed in Angola to force producers to send out a better grade. Ecuador has had a tax on exports of cocoa whose proceeds were to be used to secure the highest possible price for Ecuadorean cocoa.

Closely connected with the so-called protective export duties are those of a police character which are levied in order to avoid or alleviate some distressing condition. They are generally of a temporary character and may be employed, for instance, when poor harvests threaten famine to a country or when animal plagues create a scarcity of meat products. Such conditions arose in the German protectorate of Togo-

land in 1894 when the government was compelled to lay an export duty on sheep and Indian corn. Exigencies arising from the World War were met in some measure by export duties, but primarily by prohibitions or rigorous government control. In the post-war relaxation of this control, export duties have been playing a rôle of at least temporary importance in continental European countries both old and new. Some of them grow out of the disturbed currency and exchange situation; in Germany, one of their special purposes has been to prevent the sale abroad of finished products for a smaller sum (as expressed in foreign currencies) than the raw materials had cost owing to the lag between the fall in the international value of the mark and the rise of German prices.

Preferential export duties are sometimes employed by colonial powers to secure to their industries an advantage or a monopoly in the use of raw materials supplied by their colonies. Preferential features are found less frequently, however, in export than in import duties. They are characteristic of the colonial policy of Portugal; are used somewhat in individual colonies of France, Spain, and Italy; and are applied to isolated items in certain British colonies. From 1902 to 1913 hemp shipped direct to the United States for American consumption was exempt from the duty levied on hemp exported from the Philippines to other countries. Tin ore from the Federated Malay States is subject to a revenue export duty to which is added another heavy charge in the absence of guarantee that it will be smelted in the Straits Settlement, in the United Kingdom, or in Australia. From 1919 to 1923, two thirds of the duty on hides and skins exported from India were remitted if bonds were given that tanning would take place within the British Empire; and, from 1919 to 1922, a double duty was levied on palm kernels exported from British West Africa in cases of shipment to

points outside the British Empire or lack of guarantee that the kernels would be crushed within the Empire. These Indian and African differentials have now been removed and the same export duties are imposed regardless of destination.¹

Transit Duties. — Transit duties are taxes levied upon merchandise passing through one country and destined for another. They presuppose a comparatively advanced national development. During the Middle Ages, when political and industrial life was local in character, these duties were hardly to be distinguished from those general trade taxes levied upon goods entering or leaving local centers or from bridge and road tolls and other forms of taxation. Even under the more advanced national development of Mercantilism, although transit duties were generally levied, an effective system of administration was difficult. In more recent times the advent of the railroads has caused competition to arise among various nations for the land carrying trade and this has brought about a general abolition of these duties in modern industrial countries. Isolated cases of transit duties (not as compensation for services incurred) are still found in Africa and French Indo-China.

As regards the administration of transit trade the goods are usually sent in bond and under regulations which insure against smuggling. Customs officers sometimes accompany the goods. The transit may be direct, the merchandise being sent through without reloading, as would probably happen in case of Austrian goods sent to the Baltic countries over German territory, or it may be indirect if the goods en route be unloaded, divided, or placed in warehouses, as would be the case for English goods sent to Canada via New York or to Switzerland via North Sea or Mediterranean ports.

¹ For details, see *Tariff Commission Report on Colonial Tariff Policies*, 337-344, 352-356; *Annals*, 94:184; *Proceedings Academy Political Science*, 9: 39-60; *Commerce Reports*, especially, 1922-1923.

In commercial treaties between two nations, it is often reciprocally provided that merchandise passing to or from either country shall be free from all transit duties, whether going straight through or unloaded, stored, and reloaded. In the Treaty of Versailles, Germany agreed not to impose any transit duty on goods coming from or going to the territories of the Allied and Associated Powers and to exempt goods in transit "from all customs or other similar duties."

Classification of Import Duties. — The purpose of import duties may be to raise revenue or to protect the national industry. The class of commodities subject to these duties varies not only according to the purpose for which they are levied, whether for revenue or for protection, but also in order to equalize the divergent social, political, and economic conditions in a country. Import duties on articles which are not produced in a country and for which there is a large demand bring good revenue returns. Such articles may be manufactures or raw materials. Revenue import duties on the former are especially applicable in undeveloped countries, like the South American states, abounding in raw materials; but when such countries become industrially more advanced and labor and capital are attracted to them, these duties tend to become protective in character. Among industrial nations there are also many instances of revenue import duties on manufactures, especially on such as an importing country recognizes it cannot profitably undertake. For example, prior to 1891 the duty on tin plate imported into the United States was purely of a revenue character since this country manufactured almost none. The increase in the tin plate duty, in that year, from one cent to two and two tenths cents per pound converted it from a revenue to a protective basis and was an incentive to rapid increase in domestic production. Import duties on raw materials produced not at all or to only a slight extent in the importing country constitute an im-

portant source of revenue. Articles in this category may be divided into two groups : food products such as grain, coffee, tea, sugar, or spices ; and raw materials needed for manufactures such as cotton, wool, flax, silk, iron, or coal. Such imports are usually characteristic of industrially advanced countries, and duties levied on them are often objected to on the ground that they handicap international trade by enhancing the price of manufactures, directly by increasing the cost of raw materials and indirectly by compelling the payment of higher wages because of the increased cost of food products.

Present Importance of Import Duties. — Import duties are the most important class of customs duties, being employed almost universally by modern states. Growing national expenditures emphasize their importance, which, however, is more than counterbalanced in many countries by increasing receipts from internal revenue. International competition also tends, as stated above, to discourage the levying of import duties on either the raw materials used in manufactures or on food products.

The receipts from import duties are especially important in South America where in most countries they furnish the bulk of customs receipts and where customs are the great fiscal resource. Great Britain has been the classic land of revenue import duties ; but, in the years preceding the World War, they constituted less than twenty-five per cent of the total revenue. At the same time the percentages for the more important countries of continental Europe, with the exception of Germany, were considerably less than this — for France and Italy, about fifteen per cent. Until the 90's import duties furnished at least one half the ordinary federal receipts of the United States ; since then, their contribution has been relatively less and in 1914 was about forty per cent. The annual customs revenue had continued to increase ; but the yield of federal internal taxes had grown at a higher rate.

This swelling volume of internal revenue was drawn primarily from excises, or taxes levied on certain articles of consumption such as distilled and malt liquors and tobacco. These form a very important source of revenue in nearly all countries. But for some time states like England and Prussia had derived large returns from taxes on incomes. The American federal government had resorted to this form of taxation at different times, but the income tax provided for in the tariff act of 1894 was declared unconstitutional by the Supreme Court. Consequently, income taxes had no assured place in the scheme of federal revenue until after the adoption in 1913 of an amendment to the Constitution empowering Congress to "lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census enumeration." The same year, a progressive income tax law was enacted as a part of the Underwood tariff act. With the progress of the World War, income and excise taxes were increased and extended and a remarkable array of new revenue measures put into effect, including taxes on inheritances, excess profits, transportation, legal papers, etc. Great as the bond issues were, American participation was financed far more largely by taxation than in any previous war. In the "total ordinary receipts" of the Treasury, import duties became comparatively insignificant, partly because of the smaller yield of dutiable imports, but primarily because the total had so vastly increased. For 1918 the customs receipts amounted to about a hundred and eighty-three million dollars in a total of over four billions; that is, to less than five per cent. For 1921, they constituted less than six per cent in the United States as compared with thirteen per cent in Great Britain.

These figures do not, of course, represent the comparative importance of customs and internal revenue on a peace basis. The rigor of war legislation has already been somewhat re-

laxed; and, with the further readjustment of tariff and tax measures, customs receipts will not be so completely overshadowed as in the past few years. Nevertheless they can hardly be expected to contribute to government support in the same proportion as before the war. Greatly increasing public expenditures necessary to meet interest and debt charges and to maintain the multiplying functions of government, as well as prevailing ideas respecting distribution of wealth and equity in taxation, will make for greater emphasis on internal revenue and especially on such forms of direct taxation as apply to incomes and inheritances.

Who Pays the Tax? — In the tariff controversies in Europe and in the United States there has been much discussion as to who pays the tax. No absolute answer can be given to this question. The effect of import duties upon the price of a commodity and the incidence of the tax vary in different countries for similar articles as well as for different articles in the same country, or for like articles at different times in a given place. (a) In general, however, it may be said that if the total supply of a commodity comes from foreign countries, an import duty is strictly for revenue and the consumer pays the tax. If, for example, the price of Java coffee in the world's markets were twenty-five cents per pound and the import duty in the United States were five cents per pound, the American price, eliminating the costs of transportation and similar charges, would be approximately thirty cents, and the difference between the two prices, or five cents per pound, would be paid indirectly by the consumer into the treasury of the United States. If, however, the demand for such a commodity in the duty-levying country is highly elastic, a part at least of the burden may be assumed by middlemen or by foreign producer, especially if the producer's margin of profits is wide and if he is peculiarly dependent upon the country in question for a market.

(b) If there be an inadequate domestic production, so that an important part must be imported, such as sugar in the United States, an import duty would tend to enhance the price of the commodity by approximately the amount of the duty, and the consumer would still pay the tax, not entirely to the government as in the case of coffee or tea, but in part to the domestic producers. For example,¹ the duty collected on sugar imported into the United States in 1910 amounted in round numbers to \$50,000,000. The United States, including Hawaii and Porto Rico, produced about forty-seven per cent of its total sugar consumption. The total additional cost to the consumer because of the import duty was therefore approximately \$110,000,000, of which \$50,000,000, eliminating the cost of collection, found its way into the United States Treasury, the balance, or \$60,000,000, being paid to domestic producers in the form of enhanced prices to consumers. The incidence of the duty on a commodity supplied in part by importation and in part by domestic production is not always as clear as in the case of sugar. To conserve his general market, the foreign producer may meet the duty by lowering his export price while maintaining the previous price in his home market. Such a policy is more probable when his commodity is produced under monopoly conditions, but it may be adopted as a temporary expedient, even by competitive producers. Elasticity of demand, availability of substitutes, or determination to check development of rival production in the duty-imposing country may prevent an attempt to shift the full tariff burden to the consumer. But, in the long run, as Taussig observes, "the continuance of imports of staple goods, after a duty has been imposed, proves that the domestic consumer pays an enhanced price, or tax, to the full extent of the duty."

(c) Finally, the total supply of a commodity may be

¹ TAUSSIG, *Some Aspects*, 98.

furnished by domestic producers or manufacturers. In this case import duties are primarily for protection. They may be levied upon commodities like most American agricultural staples, which are produced and sold as cheaply within the country as elsewhere; if so, their effect is nil. Or, they may be placed on commodities which could otherwise be secured more cheaply abroad, but which are so heavily dutied as to eliminate foreign competition. Such prohibitory rates are more frequently applied to manufactures than to raw materials. Their effect upon price varies widely; they may increase it by the full amount of the duty, or by somewhat less than the full amount, or not at all. If there be a rise in price under these conditions, it is a tax paid by consumers, not to the government, but to domestic producers. One of two things may happen. The import duty may have a temporary effect of raising the price, but after the industry is well established domestic competition may force down the price until it is as low as the price in the world markets. If goods are imported under these conditions, the tax is paid by the foreigner and not by the consumer. On the other hand, there may be an absence of domestic competition, as happens in many instances where the supply is largely controlled by industrial combinations or trusts, in which case there is a tendency for the price of goods to advance to a point slightly less than the price in the world market plus the amount of the import duty. Under such a condition the added price is paid by consumers to the trust organization.

Import Duties and Trusts. — The rapid development of industrial consolidations in the United States has been contemporaneous with very high protective import duties. It is also to be observed that, while the price of trust-made goods in the home market has often been in excess of the world market price, there are many instances where the same commodities are sold in foreign markets at less than the prices

ruling in the world markets. This process of selling surplus goods in foreign markets at excessively low prices, usually in order to decrease the home supply for the purpose of maintaining high domestic prices, is called "dumping" — a topic which is dealt with more fully in Chapter VII. The prevalence of trusts, their tendency in many cases to suppress competition and raise prices, and their resort to dumping, have aroused popular hostility in the United States against most forms of industrial consolidation and have provoked discussion as to their relation to protection. They have aroused recurrent popular demand for the lowering of duties on trust-made goods and even for the abolition of all import duties on such articles, on the theory that the "tariff is the mother of trusts."

While it is no doubt true that protective import duties have in many instances encouraged the growth of large corporate organizations, it is not correct to make the general statement that trusts exist principally because of them. "Trusts were formed in industries not protected by tariff duties as well as in industries enjoying such artificial support; and they were formed in industries in which such protection was purely nominal as well as in industries in which the trusts required assistance were they to compete successfully with foreign manufacturers. Clearly the tariff cannot be held responsible for the formation of trusts in those industries in which the efficiency of American manufacturers was so pronounced that domestic prices remained lower than foreign, even after the elimination of competition in this country. The truth is that the causes of the growth of monopoly are numerous and complex, and the most that can be said with respect to the tariff is that in many instances it was a contributing factor of considerable importance" (JONES, *Trust Problem*, 273-274).

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SUGGESTIVE TOPICS AND QUESTIONS

1. Give examples of a customs duty which is for revenue in one country and for protection in another.

2. Who pays the tax in the case of duties on exports? BASTABLE, *Public Finance*, 571-572; GRUNZEL, 315-316; ROSCHER, *Prin. Political Economy*, Vol. II, pp. 426-429; BROWN, *International Trade and Exchange*, Part II, pp. 52-55.

3. What should be the general aim of all legislation? Is legislation which favors certain classes in a country justifiable? How about a protective tariff? Can you mention any legislation that does not favor certain classes of society? Is the fact that the United States has a protective tariff evidence that a majority of the American people favor protection?

4. "Import duties on raw materials produced not at all or to slight extent in the importing country constitute an important source of revenue." Give examples where such conditions exist. In the examples cited, are the imported raw materials subject to an import duty? If not, why not?

5. On what grounds does the statement that import duties are paid by the ultimate consumer call for qualification? If the United States Government placed an import duty on tea or coffee, would the foreign producer or exporter pay any of the tax? TAUSSIG, *Some Aspects*, 3-17 and *passim*; *Am. Econ. Rev.*, September, 1915, pp. 534-554; GRUNZEL, 303-312; TAUSSIG, *Selected Readings*, 417-426; CARVER, *Prin. of National Economy*, 453-456.

6. What are the objections to the plan of removing import duties on trust-made commodities? CLARK, *Control of Trusts*, Ch. 3.

7. What would be the effect upon American commerce were a transit duty levied on goods imported at New York or any other port of the United States and destined for Canada or Mexico?

8. What were the terms of the compromise which led to the constitutional prohibition of export duties in the United States? (WELLS, *Merchant Marine*, Ch. 4; MADISON's *Notes on the Constitutional Convention*). If there were no constitutional prohibition, what would be the economic effect of an export duty on cotton? On wheat, when the United States had a good harvest and there were poor harvests in other countries? When the reverse conditions prevailed?

CHAPTER VI

PROHIBITIONS AFFECTING INTERNATIONAL TRADE

Importance of Trade Prohibitions.—Prohibitions were an important feature of commercial regulations in the days of Mercantilism. As has been stated, the importation of manufactures and the exportation of raw materials were often forbidden, and both these types of restriction were frequently reënforced by prohibition of transit trade. The purpose of such legislation was usually to encourage domestic manufactures and to foster an excess value of exports over imports, so that the precious metals might be imported to pay the balance.

Until quite recent years, transit prohibitions had all but disappeared from commercial politics of advanced nations, and export and import prohibitions had come to play a relatively unimportant rôle. They had been very largely replaced by customs duties based, by means of better statistical and technical knowledge, upon national industrial conditions and tempered by a more developed sense of international legal, social, and economic relations. It should be noted, however, that these duties sometimes had a prohibitory effect, and that direct prohibitions had not entirely disappeared. Most countries still applied them to certain imports and exports, either regularly or occasionally, either absolutely or conditionally; and, during the years just past, they have been resorted to by almost all nations as a measure of war control or of post-war readjustment.

In some countries it is customary to put trade prohibitions into operation largely by executive decree; but in most countries, including the United States and the United Kingdom, there are certain specific prohibitions in the tariff act coupled with a general power permitting prohibitory decrees or proclamations to be promulgated in special cases. Emergency legislation during the World War, however, even in these countries gave the executive complete discretionary authority as to prohibition of exports or imports.

To find all the trade prohibitions of a nation, it is necessary to search, not only tariff acts, but a wide range of legislative enactments, including those relating to quarantine, pure food, labor, trade descriptions, postal service, and explosives. This statement suggests the variety of motives which prompt the export and import prohibitions enforced by modern nations.

Export Prohibitions. — Export prohibitions are less numerous than import prohibitions, but they represent a similar range of purposes. Some are placed on raw materials clearly for the *protection of domestic industry*; for example, certain Canadian Provinces do not permit the exportation of timber cut from Crown lands until it has first been advanced to some stage of manufacture, such as sawn lumber, pulp, or paper. The Portuguese prohibition upon unmanufactured cork is directly in the interest of the domestic cork industry, but indirectly it serves a *revenue* purpose, since the finished product is subject to a productive export duty. Other measures are designed to safeguard the reputation of domestic products, as when a ban is put on the exportation of adulterated leather from Australia, adulterated kauri gum from New Zealand, or adulterated or impure rubber from the Belgian Congo. Such prohibitions as those in the United States against adulterated or misbranded food or drugs; in Switzerland against the export of matches made with white phos-

phorus; in Japan against the export of brushes made of undisinfected animal hair; or in Australia and elsewhere against the export of uninspected or unfit meats, are in the interest of *health* as well as of a *better market*. The variety of export prohibitions which look to the *conservation of plant and animal life* is illustrated by embargoes placed in different countries on such items as plumage and skins of birds, horns of certain animals, timber cut from trees of less than a specified size, or animals for breeding purposes. These shade off imperceptibly into prohibitions upon the export of cattle to conserve the livestock industry of a country and into embargoes upon foodstuffs and necessities in time of threatened *famine* or acute *economic distress*. Such crises may arise from military disturbances or from other causes. In the course of the World War, nation after nation, neutral as well as belligerent, turned to export embargoes as a means of exerting economic pressure, economizing shipping facilities, conserving the home supply of essential commodities, or regulating prices. Much of this régime of prohibitions carried over into the era of reconstruction. While it has gradually given way to more normal trade regulations, unsettled financial and political conditions have made for its survival, in some degree, in various countries, especially as a device for averting food shortage, meeting trade discriminations, conserving precious metals and other media of payment, or controlling prices in the face of a distorted exchange situation. In some sense as a by-product of the war came the eighteenth amendment to the Constitution of the United States, which prohibits the exportation as well as the manufacture, sale, or importation of intoxicating liquors for beverage purposes.

Import Prohibitions for Revenue and Protection. — Prohibitions upon imports are sometimes of a *revenue* character, notably in the case of government monopoly of certain articles

such as matches, tobacco, salt, explosives, and playing cards. The importation of such articles is either absolutely prohibited or is permitted only under stringent government regulations. Among the nations using this device to safeguard revenue from monopolies are France, Spain, Portugal, Italy, Greece, Japan, and some countries of South America. In cases of government monopoly of a specified commodity, the import prohibition may be extended to substitutes therefore; for instance, governments maintaining a match monopoly often forbid the importation of cigar lighters, igniters, and other substitutes for matches. Occasionally a government grants a monopoly to a private corporation which is held responsible for collection of internal revenue. Peru has adopted this policy with respect to opium, tobacco, denatured alcohol, and salt, and prohibited importation of these commodities by private persons.

The importation of some commodities is prohibited for purposes of *economic protection*, as, for example, the Canadian import prohibition of oleomargarine, butterine, or similar substitutes for butter, or the Polish prohibition upon the importation of "completed motor cars." The aim of the former is ostensibly to protect Canadian dairy interests, while the purpose of the latter is to assist Polish manufacturers of motor car bodies. A Spanish decree in 1922 established a prohibition upon the importation of wheat and wheat flour to remain in effect until a stipulated minimum price for wheat had been maintained in the home market for at least one month.¹

Import prohibitions are also frequently invoked to *protect plant and animal industries* from the menace of disease from abroad. Thus from 1875 to 1910 France excluded American potatoes for fear of the potato bug. Aroused by an epidemic

¹ A survival of the sliding scale principle which characterized the old English Corn Laws. See GREGORY, *Tariffs*, 133-142.

of foot and mouth disease in the United States some years ago, Canada forbade the importation from this country of "all cattle, sheep, goats, or parts thereof, and all hay, straw, fodder, and manure." Many wine countries prohibit importation of vines, because of phylloxera; but vines from the United States are usually exempted from such prohibition as being immune. The laws of the United States specifically prohibit the importation of insects, birds, and animals injurious to the agricultural and horticultural interests as well as adulterated or unfit seeds for many staple farm crops. Plants and nursery stock and viruses, serums, and toxins for the treatment of domestic animals are admissible only under permits issued by the Secretary of Agriculture.

Many countries *protect home labor* by prohibiting the importation of prison- or pauper-made goods. The American tariff states "that all goods, wares, articles and merchandise manufactured wholly or in part in any foreign country by convict labor shall not be entitled to entry at any of the ports of the United States."

Many tariff laws contain import prohibitions of publications which infringe upon domestic *copyright* and of merchandise falsely labeled with a domestic *trade mark*. The American law excludes piratical copies of copyrighted works (Section 30, Act of March 4, 1909) and all "articles which shall bear a name or mark calculated to induce the public to believe that the article is manufactured in the United States, or that it is manufactured in any foreign country or locality other than the country or locality in which it is in fact manufactured." (Section 27, Act of February 20, 1905.)

Import Prohibitions Based on Sanitary Grounds. — While, as we have seen, prohibitions may be for the purposes of revenue or protection, they are more often based on grounds of sanitation, morality, or public security. Many states prohibit the importation of articles regarded as dangerous to

public health. The list of articles in this category more commonly includes "infected cattle, sheep, or other animals and the carcasses thereof, and hides, skins, horns, hoofs, or any parts of other animals," adulterated tea, spurious liquors, and in general "comestibles in a state of decomposition or other products injurious to public health."

The American tariff law states that "the importation of neat cattle and the hides of neat cattle from any foreign country into the United States is prohibited under such rules of inspection as the Secretary of Agriculture may determine"; but this prohibition may be suspended as regards any country whenever the Secretary of Agriculture gives notice that "such importation will not tend to the introduction or spread of contagious or infectious diseases among the cattle of the United States." Other commodities specifically excluded from the United States on sanitary grounds are white phosphorus matches and adulterated or unwholesome food and drugs. Besides, the Secretary of Agriculture is granted wide discretion as to regulations and measures to prevent the introduction of contagious diseases of animals from foreign countries and the President extensive powers to suspend by proclamation the importation of any articles he regards as "dangerous to the health or welfare of the people of the United States."

In the name of public health, prohibitions upon imports are, however, sometimes imposed whose prime purpose is protection to a domestic industry, or discrimination or pressure against particular nations. Modern food regulation and veterinary police power lend themselves plausibly to the attainment of these ulterior ends. A good illustration was the prohibition of certain American meat products by Germany in the 80's and 90's, officially on sanitary grounds, but really to protect her own agrarians, as evidenced by the maintenance of restrictions on some of these products even after adequate

provision had been made for inspection of American meat products before exportation.

Prohibitions Based on Moral or Religious Grounds. — All civilized states prohibit the importation of certain articles offensive to the national morality. Usually these prohibitions are incorporated in the general tariff act, but sometimes they are to be found in special statutes. The American laws forbid the importation of "any obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing, or other representation, figure or image on or of paper or other material, or any cast, instrument or other article of immoral nature, or any drug or medicine, or any article whatever for the prevention of conception or for causing unlawful abortion, or any lottery ticket or any advertisement of any lottery," or "any film or other pictorial representation of any prize fight or encounter of pugilists, under whatever name, which is designed to be used or may be used for purpose of public exhibition." In monarchical Russia there was statutory prohibition of the "importation of articles of an irreligious, irreverent, blasphemous or impious character"; in Persia, of writings or pictures opposed to the Mohammedan religion; and in the Sudan, of all articles "calculated to throw contempt on the Moslem or Christian religion."

Many nations prohibit the importation of certain articles the consumption of which they regard as morally or physically degrading to their inhabitants. By act of February 9, 1909, it is made "unlawful to import into the United States opium in any form or any preparation or derivative thereof: Provided that opium and preparations and derivatives thereof, other than smoking opium or opium prepared for smoking, may be imported for medicinal purposes only, under regulations which the Secretary of the Treasury is hereby authorized to prescribe"; and, by the Constitutional Amendment ratified January 16, 1919, intoxicating liquors for beverage purposes

were, as already noted, added to the list of imports prohibited.

Prohibitions Based on Grounds of Public Security. — There are prohibitions against the importation of firearms, ammunition, and general munitions of war in many parts of Africa, in countries of Western Asia, and in many of the East and West Indian islands. Several of the Central and South American tariffs also contain similar prohibitions, but such restrictions are not common in the laws of the more advanced nations.

The tariff laws of many states contain import prohibitions of debased or counterfeit coin, as well as of false weights and measures. The English law includes in this list "false money or counterfeit sterling; silver coin of the realm, or any money purporting to be such, not being of the established standard of weight or fineness, all coins coined in any foreign country other than gold and silver coins." United States statutes prohibit "anything in the likeness of the coins of the United States or of any foreign government and counterfeits of the securities or obligations thereof, and any dies or apparatus used in making counterfeits." To somewhat similar regulations, Canada adds the prohibition of "books, printed paper, drawings, paintings, prints, photographs or representations of any kind of a treasonable or seditious" character, and posters depicting murder or other high crimes. Various nations have characteristic laws excluding not only articles but also persons regarded as politically undesirable, such as United States provisions against the entrance of criminals and anarchists; but these restrictions upon the movements of persons are not strictly a part of national commercial policies.

Conditional Prohibitions. — As implied in the foregoing sections, import prohibitions are not always absolute, but are frequently contingent or conditional. Articles otherwise admissible, for instance, are sometimes not importable (*a*) by mail, as in the case of manufactures of celluloid or nursery

stock and certain other vegetable products, or (b) if not packed and marked in accordance with general or special regulations laid down in legislative acts or in administrative rulings. In recent years much attention has been given in various countries to the matter of indication of the country of origin of imports; and the tariff of 1922 stipulates that "every package containing any imported article" and "every article imported into the United States which is capable of being marked, stamped, branded, or labeled, without injury, . . . shall be marked, stamped, branded, or labeled, in legible English words in a conspicuous place . . . so as to indicate the country of origin."

Occasionally a government reserves unto itself the exclusive right to import a certain commodity, as in the case of opium in Ceylon and dynamite in Venezuela. More commonly, however, the importation of specified commodities is conditioned upon the securing of a license or authorization from a designated public official or upon complying with standards set up from time to time by discretionary authority. The importation of photographic films into the United States, for example, is subject to such censorship as may be imposed by the Secretary of the Treasury, and the importation of livestock into several countries is subject to special license or to veterinary examination. In 1922, certain nations of Central and Eastern Europe, notably Germany and Hungary, still applied the license system to the importation of extended lists of articles, while in Soviet Russia foreign trade was a state monopoly conducted by the Commissariat of Foreign Trade.

Prohibitions by International Agreement. — Trade prohibitions have to some extent been reënforced by international agreement and coöperation. By virtue of the International Phylloxera Convention of 1883, the importation of grapevines and vine props into several European countries was forbidden, while the importation of grapes was carefully regulated. A

general act for the repression of the African slave trade and the restriction of the importation and sale of firearms, ammunition, and spirituous liquors in a certain defined zone of Africa, was signed by seventeen of the powers in 1890 and duly ratified in 1892. In 1903 plenipotentiaries of the leading nations signed at Paris an international sanitary convention providing, among other things, for import prohibition of rags, body linen, wearing apparel, and bedding under certain circumstances. The Universal Postal Convention greatly strengthens national restrictions by excluding from the international mails all articles whose importation or circulation is prohibited in the country of destination.

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SUGGESTIVE TOPICS AND QUESTIONS

1. Is there any practical difference between customs prohibitions and prohibitory customs duties?

2. To what extent and for what purposes were prohibitions applied to their trade by the American colonies themselves? JOHNSON, *Domestic and Foreign Commerce*, Vol. I, pp. 59-60, 62-64; GIESECKE, *American Commercial Legislation*; *Am. Hist. Assoc. papers*, Vol. III, No. 2, p. 470; *Quar. Jour. Econ.*, 7: 78-100.

3. May a state of the American Union levy customs duties or prohibit imports? The boll weevil insect threatens the cotton crop of the South with destruction. May one state, in order to protect itself against this danger, prohibit the importation of cotton from another? U. S. Constitution, Art. I, Sec. 10.

4. Under what laws and through what agencies was American trade controlled during the World War? Illustrate their working. Compare with war trade control in some other country. LIPPINCOTT, Chs. 5 and 6; CLARK, HAMILTON, AND MOULTON, 272-300; *Amer. Hist. Rev.*, October, 1920, pp. 54-76; Report of U. S. War Trade Board, June 30, 1919.

5. Outline the system of government control of foreign trade in Soviet Russia. *Commerce Reports*, May 15, 1922, pp. 444-445; July 17, 1922, pp. 201-203.

CHAPTER VII

FORMS AND BASES OF DUTIES

Introduction. — As already stated, there are two basic forms of customs duties — *ad valorem* and *specific*. The former are based on values and measured in percentages. Thus in the American tariff act we find that post cards pay a thirty per cent *ad valorem* duty when imported, which means that for every dollar's worth brought into this country the government exacts a payment of thirty cents. *Specific* duties are those based upon a unit of weight or measure and are measured in payments per pound, ton, kilogram, dozen, quart, liter, etc. In the American tariff law, for example, lemons pay an import duty of two cents per pound. Sometimes there is a combination of both kinds of duties; such combinations are spoken of as *compound* (or *mixed*) duties. Writing paper, for instance, imported into the United States pays a duty of three cents per pound and fifteen per cent *ad valorem*.¹

Compound duties are rare except in the United States. *Specific* rates of duty are most largely used on the Continent of Europe and in certain other countries including Chile, Peru, and Mexico. The *ad valorem* form is conspicuous in many backward countries throughout the world; British colonies use it as does Great Britain in her newer duties; and it reaches its highest development in the United States, although here, as in Japan, *specific* rates are also found in large number. The *ad valorem* duty can be enacted readily by the legislative body, and in theory it is eminently fair; but, to apply

¹ For discussion of "mixed" duties, see GREGORY, *Tariffs*, 127-131.

it properly, a highly organized, expert, and costly administrative system must be built up. The world tendency before the war was clearly in the direction of specific rates because of the ease of their application. But specific duties fail to keep in alignment with the currency. In the face of the general increase in prices and of the growth of governmental expenditures, the revenue produced by such duties remained unchanged. So even France has found it advisable to introduce many ad valorem rates into a system which before the war was limited almost entirely to specific rates.

Advantages and Disadvantages of Ad Valorem Duties. — The principal advantage of ad valorem rates is their adaptability to changing market conditions. The amount of the duty increases or diminishes with the rise or fall in the price of the imported articles. Likewise the finer or higher-priced goods pay proportionally the same as the lower grades. The duty is thus equitable when properly applied. There are, however, many serious disadvantages in the use of ad valorem rates. They are difficult and expensive to administer, both because of the temptations of importers to undervalue their goods in order to escape the full payment of duties and because of the large number of expert officials required to determine properly the various rates of duties.¹ Many opportunities for fraudulent practices are open not only to importers but to government officials and, although very severe penalties have been enacted to overcome these evils,² they have not proved entirely effective. One of the difficulties in applying ad valorem duties is the determining of a correct value basis as expressed in price. Should the latter be the price at the

¹ In the United States, undervaluation is discouraged by a simple rule. If the appraiser raises the value above that declared by x per cent, an additional duty of x per cent is imposed. Thus, if the declared value is \$100, the rate 25 per cent, and the appraised value \$105, the duty will be \$105 times 25 per cent (i.e. \$26.25) plus \$105 times 5 per cent (i.e. \$5.25); total, \$31.50. See Tariff Act of 1922, Sec. 489.

² See Tariff Act of 1922, Sec. 591; Tariff Act of 1923, Sec. III, Para. G and H; U. S. Tariff Commission, *Report on the Revision of Customs Administrative Laws*, pp. 12-19, 108-109, 276-277.

place of purchase, at the port of departure, or at the port of entry? Should the price include storage, packing, or transportation costs? Should it be the wholesale or the retail price?

Ad Valorem Duties: Basis of Valuation. — (a) *Import Value.* In most countries the value used as a basis for calculating ad valorem rates of duty is theoretically the value of goods at the port of importation, but methods of determining the value at such ports vary widely. In some cases the value is arrived at by adding to the current domestic value at the place of exportation a certain percentage (Australia, e.g. ten per cent) to cover ocean transportation and insurance; in other cases, by adding a similar percentage to the invoice value when such value does not include freight and insurance. In the absence of an invoice or when the correctness of the invoice is questioned, the basis is sometimes determined by making a deduction from the wholesale (duty-paid) price at the port of entry.

(b) *Export Value.* In the United States, as in Cuba, Dominican Republic, Panama, Newfoundland, Canada, and the Union of South Africa, the basis taken has commonly been the value at the place of exportation, usually including the cost of packing and other expenses incident to preparing the goods for shipment and sometimes with the express stipulation that the dutiable value shall not be less than the current value for home consumption at the place of purchase.

(c) *Official Value.* In a few countries ad valorem rates are assessed, not upon the actual value of particular shipments at all, but upon fixed schedules of values officially assigned to commodities which are subject to ad valorem duties, purely for duty-assessment purposes. This method is characteristic of the so-called valuation tariffs of Argentina, Bolivia, Paraguay, and Uruguay. An ad valorem rate is established in the tariff law for each of several large groups of commodities,

e.g. "drugs, paints, oils, and chemicals"; and then from time to time official value is given to each commodity falling within that group, by the Executive either with or without the assent of the Legislature as the law of the country may prescribe. These official valuations are usually changed infrequently, and they bear no definite relation to actual market prices. The duties therefore, while *ad valorem* in form, are really specific in effect. Somewhat similar practice in tariff matters seems to have been usual in Europe a century ago and later, but to-day it is rarely followed except in South America. Even there the tendency is to replace it by specific duties, as has already been done in Peru and Chile.¹

In connection with the recent revision of the American tariff, much prominence was given to a proposed "American valuation plan" which involved the abandonment of export value as the basis for assessing *ad valorem* duties and, as originally formulated, the substitution primarily of the wholesale price of comparable or competitive products of the United States in the principal markets of this country. Among the arguments advanced in its support were uniformity of rate upon a given commodity irrespective of the country whence imported; greater simplicity and definiteness in fixing valuations especially "in these days of chaos in foreign exchange when foreign values expressed in the terms of foreign currencies fluctuate from day to day"; saving of large amounts of revenue now lost through undervaluation; and more adequate and dependable protection to American industry. On the other hand, it was contended that the plan would lead to confusion in customs administration; render foreign-trade business highly speculative and precarious since importers would not know what duties to expect; tend to make our tariffs prohibitive; unduly check imports and, in turn, cur-

¹ GREGORY, *Tariffs*, 131-133. The Brazilian tariff has certain peculiar features which are apparently a survival from an older valuation tariff; see RUTTER, *Tariff Systems of South America*.

tail exports; reduce customs revenue and so necessitate increases in other forms of taxation; and, in short, aggravate all our current evils of depression, high cost of living, and business uncertainty.

In the tariff of 1922 (Section 402), (a) the general basis for assessing duties is declared to be the foreign value or the export value, whichever is higher. Foreign value is defined as the market price "at the time of exportation of such merchandise to the United States, at which such or similar merchandise is freely offered for sale to all purchasers in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade, including the cost of all containers and coverings of whatever nature, and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States." (b) If neither the foreign value nor the export value can be ascertained to the satisfaction of the appraising officers, the duty shall be based on the United States value; that is, the wholesale price of similar merchandise in the principal markets of the United States, minus the import duty, the necessary shipping charges from the point of exportation to the place of delivery, and commission or profit not exceeding a stipulated percentage. (c) If neither the foreign value nor the export value nor the United States value can be ascertained, the dutiable valuation shall rest upon cost of production. (d) Ad valorem duties on certain imported coal-tar dyes are to be based upon the American selling price of similar competitive articles manufactured or produced in the United States. (e) The American selling price may be employed as the basis for assessing duties on any other imported commodity whenever, upon investigation, the President shall declare that such action is necessary in order to equalize the differences in the costs of production in the United States and the principal competing country.

Advantages and Disadvantages of Specific Duties. — As already indicated, the chief advantage of specific duties rests in the simplicity and cheapness of their administration. Customs officials have, for the most part, only to weigh, measure, or count the merchandise crossing the national boundaries — a procedure involving but little technical skill, expense, or opportunity for fraudulent practice, and aiding commerce by its speed of execution. On the other hand, such duties are not readily adaptable to currency fluctuations and they are inequitable. Coarser and cheaper goods are generally taxed proportionally higher than the finer and more expensive articles, while the opposite rule should prevail. For example, if imported cotton cloth were taxed ten cents a yard regardless of quality, the cloth worth five cents per yard would be paying duty equivalent to two hundred per cent, while the material worth fifty cents per yard would escape with a duty of only twenty per cent. This inequality is partially obviated by arranging merchandise in groups based upon the degree of manufacture, the fineness of the goods, or upon some other common basis, and applying special rates to particular groups. For example, razors valued at less than 75 cents per dozen are dutied in the American Tariff of 1922 at 18 cents each; valued at 75 cents and less than \$1.50 per dozen, 25 cents each; valued at \$1.50 and less than \$3 per dozen, 30 cents each; valued at \$3 and less than \$4 per dozen, 35 cents each; valued at \$4 or more per dozen, 45 cents each, to which is added in each case 45 per cent *ad valorem*. Some such general method of grouping is characteristic of nearly all customs tariffs, and rates thus adjusted are called *graduated duties*.

An important point to consider in regard to specific duties is whether they are levied on net or gross weight or measure. The duty ought naturally to be based upon the article exclusive of the packing; but, as the removal of the latter for the

purpose of obtaining net weight or measure would often be a serious damage to the goods or would delay commercial transactions, many tariff laws make a legal allowance, known as "tare," on various kinds of articles.

Specific Duties: Basis of Weight. — The basis of weight for the assessment of specific customs duties varies widely in different countries and even among different commodities imported into the same country. Three general bases are, however, well-marked: (a) gross weight, which includes the weight of the merchandise and of all its packing; (b) net weight, which is the weight of the goods without any packing; and (c) legal weight. The last is a less standardized term, occurring in Latin-American usage particularly, and defined in the Mexican tariff as "the weight of the articles including that of the internal packing, wrappings, bottles, boxes of cardboard, wood or tinplate, straw or chip covers, in which the goods are packed inside the outer case which serves as the general receptacle for the goods." It corresponds to the semi-gross weight of the French tariff.

Switzerland, Venezuela, Colombia, and some Central American states use gross weight exclusively; several countries of Europe and Asia, among them Japan, United Kingdom, Belgium, and the Netherlands, depend upon net weight; while some other European nations employ gross weight only in the case of articles dutiable at low specific rates, *e.g.* ten francs or less per kilogram in France. The South American states present great variation in usage, including different combinations of gross weight, net weight, legal weight, and detailed stipulations in the tariff acts as to tare allowances on designated articles or types of packages. In nearly all countries of the world in which net weight is the basis, there are provisions for calculating the net weight by applying certain tare allowances; weight thus arrived at is termed "legal net weight."

By the American tariff law (1922) the Secretary of the Treasury is authorized to prescribe and issue regulations for the ascertainment of tare upon imported merchandise, including the establishment of reasonable and just schedule tares therefor; but in no case shall there be any allowance for draft or for impurities, other than excessive moisture and impurities not usually found in or upon such or similar merchandise.

Payment of Customs Duties. — As a general rule the standard money of a country is receivable in payment for its customs duties. Some states having depreciated currencies require these taxes to be paid in gold. One result of this is virtually to raise existing imposts, a condition which has brought ineffectual remonstrances especially from countries having commercial treaties with the offending nation. When Russia in 1877 and Austria-Hungary in 1878 enacted that imposts be paid in gold, the effect was to enhance the prevailing rates of duty thirty-three and fifteen per cent respectively. Another result of requiring gold payments in depreciated currency countries is to increase the gold reserve, a situation especially advantageous for countries having interest to pay on foreign loans. This was practically the situation in the United States as a result of the Civil War. At that time large amounts of depreciated paper money were issued which were receivable in payment for all public dues except duties on imposts and of all claims against the United States except interest on the public debt. This was virtually a requirement that import duties be paid in coin. However, in 1879 when the so-called "greenbacks" or United States notes came to a par with gold, the requirement of coin payment was revoked by an order of the Secretary of the Treasury. At the present time not only gold coins and silver dollars but also United States demand notes, United States Treasury notes, gold and silver certificates of the United States, Federal

Reserve notes, and circulating notes of national banks are receivable for duties at their nominal value in unlimited amounts. Furthermore, it is lawful for customs officials to receive certified checks drawn on national and state banks and trust companies in payment of customs duties, under such regulations as the Secretary of the Treasury shall prescribe.

Argentina and Chile fix duties in gold pesos, but collect them in paper pesos at an official rate. In Brazil, part of the duty is payable in paper and part theoretically in gold, but actually in paper with agio.

Extraordinary conditions as to foreign exchange and currency depreciation since the World War have brought forth the greatest variety of regulations in regard to payment of customs duties. In some countries gold payment has been insisted upon, if not on all imports, at least on certain classes of goods, for example, luxuries brought into Austria. More frequently payment in paper has been permissible, but only at rates sufficiently higher than those for gold payment to offset more or less accurately the difference in purchasing power between gold and paper. Commonly the statutory tariff rates hold for gold payments, and, in fixing the terms for payment in paper, they are taken as the basis which is either multiplied by a number adopted for the purpose or is supplemented by a surtax stated as a percentage of the basic rate. The latter method has been employed, for instance, in Italy and Bulgaria; the former, in Germany, Austria, Poland, Hungary, Roumania, and other countries of Central and Eastern Europe. The multiples or surtaxes are revised from time to time in the light of changes in the currency situation; in Germany and Austria sometimes as often as once a week. Thus the number of paper marks required in payment of German import duties for the week of June 5, 1923, was fixed at 9919 times the basic gold rates specified in the customs tariff. Nor are these differentials always the same for all commodities

imported into the same country; in Poland and Hungary, for example, it has been made much higher for luxuries and less essential imports than for basic materials and important articles of general consumption.¹

Discriminating Duties on Vessels and Their Cargoes. — Duties of this kind are such as discriminate in favor of domestic vessels and their cargoes by levying a higher rate of duty upon foreign than upon native ships and cargoes. The Navigation Act of Cromwell aimed to foster the carrying trade of England by forbidding the importation of merchandise except in English vessels or in ships belonging to the exporting country, but later this prohibition was replaced by discriminating duties. Such discriminations formed a prominent feature of the Mercantile System, but have largely lost their importance in existing commercial politics. There is, however, some tendency to revive them in very recent years, both in the United States and in other countries. In the case of most nations discrimination has been merely threatened; but Portugal has actually applied it to Norwegian ships and cargoes.

In the United States, among the first acts of the government under the Constitution were the passage of a discriminating tonnage law and the granting of lower import duties on goods if brought in American ships. Section IV of the Tariff Act of 1913 contains several clauses touching this matter, which are still in force (Paragraph J, Subsections 1-3): (a) a discriminating duty of ten per cent ad valorem in addition to the duties imposed by law is levied upon merchandise imported into the United States in foreign vessels, but this law is unimportant since it does not apply to the merchandise imported in foreign vessels entitled by treaty to be entered in the ports of the United States upon the payment of the same duties as in the case of American vessels. (b) Likewise im-

¹ See GREGORY, *Tariffs*, 363-366, as to post-war situation in Europe and the payment of customs duties.

ported merchandise is subject to forfeiture unless entered in vessels of the United States or in such foreign vessels as belong to citizens or subjects of that country of which the goods are the growth, production, or manufacture or from which such goods can only be or most usually are first shipped. This provision has but little value, being inapplicable to the vessels or goods imported in vessels of a foreign nation which does not maintain a similar regulation against vessels of the United States. (c) A provision of the law, also, should be noted which stipulates that an additional duty of ten per cent must be paid on goods "which, being the production or manufacture of any foreign country not contiguous to the United States, shall come into the United States from such contiguous country." The purpose of this law is to divert from Canadian railroads goods imported into Canada but destined for consumption in the United States, but it has been so construed as to be inoperative. (d) A discount of five per cent of the import duty was authorized in case of goods brought in vessels of American registry; but, in view of a proviso that this authorization should not be construed as abrogating, impairing, or affecting the provisions of any treaty with a foreign nation, the clause remained a dead letter pending revision of treaties. By the Merchant Marine Act of 1920, the President was directed to give notice to the foreign governments concerned that the United States would terminate so much of existing treaties as restricted American freedom to levy higher duties on foreign vessels and their cargoes than on American vessels and their cargoes. President Wilson and President Harding, in turn, declined to give such notice; and the five per cent clause of 1913 was repealed by the Tariff Act of 1922.

It is significant that the International Economic Conference at Genoa, May, 1922, deemed it advisable to incorporate the following in its recommendations to the individual countries represented: "Subject to the existing treaties and agreements

with regard thereto, the régime applied by each of the States to the merchandise of the other States, whether imported or exported, should not depend in any case upon the flag of the vessel in which the goods are carried, or upon the nationality of its owner."

Compensating Duties. — An import duty imposed on a commodity with the avowed purpose of merely compensating the domestic producer for an import duty on raw materials used or for internal taxes on his product, is spoken of as a compensating duty. It is not supposed to be positively protective, but is simply to relieve the domestic industry of the handicap of added costs ascribable to the action of the home government. The general application of this principle is common enough in tariff-making; but the wool and woollens tariff rates of 1861 mark the first attempt in the United States at a detailed system of exact compensation. Compound duties were applied, the ad valorem rate being admittedly protective and the specific representing compensation for the import duty on wool. For example, woollen cloths were dutied at twelve cents per pound plus twenty-five per cent ad valorem; the specific duty was placed at four times the three-cent duty on wool on the assumption that four pounds of wool normally entered into the making of a pound of cloth. It was early recognized that added protection was afforded under this guise of compensation; but the system has persisted with elaborations and modifications down to the present, except for the periods of free wool under the tariffs of 1894 and 1913.

Countervailing Duties. — The term countervailing duty is applied to certain additional duties or surtaxes imposed by an importing country to neutralize bounties or favors enjoyed by certain imported commodities at the hands of exporting governments. They are resorted to because, in many cases, an export bounty on an article discourages its production in the importing country and renders ineffective import duties

set up to foster its production there. For many years there were export bounties on beet sugar in many European countries. In the American tariff act of 1890 were incorporated provisions for special additional duties on bounty-fed sugars; India adopted similar measures; and countervailing duties were made a cardinal feature of the International Sugar Convention of 1903.

Since 1897 the United States tariff laws have provided that *any* dutiable commodity which receives a governmental bounty in the land of exportation, shall be subject to a corresponding countervailing duty upon its importation into this country. In 1922 this provision was made applicable also to dutiable commodities receiving bounties from private sources either individual or corporate. Section 303 of the Fordney tariff reads in part as follows: "That whenever any country, dependency, colony, province, or other political subdivision of government, person, partnership, association, cartel, or corporation shall pay or bestow, directly or indirectly, any bounty or grant upon the manufacture or production or export of any article or merchandise manufactured or produced in such country, dependency, colony, province, or other political subdivision of government, and such article or merchandise is dutiable under the provisions of this Act, then upon the importation of any such article or merchandise into the United States . . . there shall be levied and paid in all such cases, in addition to the duties otherwise imposed by this Act, an additional duty equal to the net amount of such bounty or grant."

Anti-dumping Regulations. — "Dumping" is an unstandardized term often used loosely in popular discussion to cover any introduction of foreign goods into a country at prices which domestic producers find it difficult to meet. Therefore it is not strange that quite a variety of regulations designed to mitigate the effects of such competition is labeled

anti-dumping legislation. In its strictest sense dumping signifies the disposal of goods in foreign markets at less than the normal price in the markets of the exporting country. Such selling may be temporary and sporadic — an unloading of occasional surpluses; or it may be continuous, sustained by export bounties or dictated by a condition of monopolistic production at diminishing cost; or it may be “a method of predatory price cutting intended to destroy a foreign industry, to eliminate a competitor, or to prevent the development of competition in the import market.” Since the late War, the term dumping has become associated also with imports from countries having a greatly depreciated paper currency, especially Germany.

Three measures may be selected as fairly representative of the different types of foreign tariff legislation directed against dumping. The Canadian law of 1907 provides that “in the case of articles exported to Canada of a class or kind made or produced in Canada, if the export or actual selling price to an importer in Canada is less than the fair market value of the same articles when sold for home consumption in the country of exportation,” there shall be added to the duties otherwise chargeable on such article a special duty equal to the difference between the export or selling price and the fair market value for home consumption, but that this special duty shall not exceed fifteen per cent ad valorem in any case.

Under the Australian law of 1906, the importation of any goods might be prohibited, absolutely or conditionally, if it was decided in court that their importation constituted unfair competition with Australian industries. Competition was presumptively unfair if it would probably lead to the Australian goods not being produced, or being withdrawn from market, or produced at a loss, or at inadequate remuneration for labor; if it would create a substantial disorganization in Australian industry and consequent unemployment;

if the imported goods were purchased abroad at prices greatly below cost of production where produced or greatly below market prices where purchased; or if sold in Australia at a price insufficient to yield a fair price in view of their foreign cost plus all charges.¹

The British Safeguarding of Industries Act of 1921 authorizes under certain conditions the levying of a duty (in addition to the regular customs rate) equal to one third their value in the case of goods (other than articles of food or drink) manufactured in a country outside the United Kingdom and sold or offered for sale in the United Kingdom (a) at prices below the cost of production thereof; or (b) at prices which, by reason of depreciation in the value in relation to sterling of the currency of the country in which the goods are manufactured are below the prices at which similar goods can be profitably manufactured in the United Kingdom, and which therefore seriously affect employment in any industry in the kingdom.

Anti-dumping Legislation in the United States. — The United States Congress has enacted three measures relating to dumping.

(a) The first, approved September 8, 1916, was directed against unfair methods employed by the German coal-tar dye industry, but was drawn in terms of general applicability. The importation or sale of any article from a foreign country "at a price substantially less than the actual market value or wholesale price of such article, at the time of exportation to the United States, in the principal markets of the country of their production or of other foreign countries to which they are commonly exported after adding to such market value or wholesale price, freight, duty, and other charges and ex-

¹ This law was radically changed by the Australian Industries Preservation Act of 1921 under which are authorized special or anti-dumping duties on various sorts of importations thought to be detrimental to Australian industry. See *Commerce Reports*, November 27, 1922, pp. 559-560.

penses necessarily incident to the importation and sale thereof in the United States . . . with the intent of destroying or injuring an industry in the United States, or of preventing the establishment of an industry in the United States, or of restraining or monopolizing any part of trade or commerce in such article in the United States," was declared a criminal act punishable by fine or imprisonment or both. Furthermore, with a view to checking the practice of "full-line forcing," any article imported with the understanding that persons using, purchasing or dealing in it are restricted as to the handling of other articles, was made subject not only to the regular import duty, but to a special duty equal to twice the regular rate.

(b) The Anti-Dumping Act of 1921 stipulates that "whenever the Secretary of the Treasury, after such investigation as he deems necessary, finds that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation into the United States of a class or kind of foreign merchandise, and that merchandise of such class or kind is being sold or is likely to be sold in the United States or elsewhere at less than its fair value," on all such merchandise, whether dutiable or free of duty, shall be collected in addition to duties imposed thereon by law, "a special dumping duty" equal to the difference between its foreign market value and its "purchase price" or its "exporter's sales price" as defined in the statute.

(c) Finally Section 316 of the Tariff Act of 1922 (1) declares unlawful "unfair methods of competition and unfair acts in the importation of articles into the United States, or in their sale by the owner, importer, consignee, or agent of either, the effect or tendency of which is to destroy or substantially injure an industry efficiently and economically operated in the United States or to prevent the establishment of such industry, or to restrain or monopolize trade and commerce in

the United States," and (2) authorizes the President to impose upon articles imported in violation of this section an additional duty (not less than ten nor more than fifty per cent ad valorem) which will offset such unfair methods or acts and, in extreme cases, to forbid the offender to import goods into the United States, until assured "that the conditions which led to the assessment of such additional duty or refusal of entry no longer exist." The provisions of this section are more comprehensive and flexible than those of 1916 or 1921. They extend to import trade the same sort of restraint upon unfair practices that the Federal Trade Commission Act imposes in the case of interstate commerce. They do not attempt a definition of "unfair" methods and acts, but obviously aim at price cutting, exclusive dealing, commercial bribery, and other competitive practices condemned as unfair in laws relating to interstate trade.

Retaliatory Duties. — Retaliatory duties are rates higher than those contained in the regular tariff and are levied in exceptional cases upon goods imported from certain countries. They may be employed because one nation objects to what it regards as an unreasonable tariff law of another country, as was the case in the tariff war between Austria-Hungary and Roumania (1886-1893), the former nation objecting to the exceptionally high tariff of the latter. Under the United States Tariff Act of 1922, the regular duties on automobiles and bicycles apply only to imports from countries which admit American cars and bicycles at the same or lower rates; such articles imported from other countries are subject to an additional duty not to exceed fifty per cent ad valorem. As an outgrowth of Norwegian prohibition legislation which closed an important market for Portuguese wines, Portugal in 1921 imposed five times the normal shipping fees, customs duties, and surtaxes upon Norwegian ships and goods. Norway in turn subjected Portuguese products to her maximum

tariff rates. Sometimes retaliatory duties are applied because one nation considers that other countries have been treated more favorably than itself. This was Russia's contention in her tariff war with Germany (1893-1894). Again such duties have been used after a commercial treaty has lapsed and attempts to negotiate a new one have resulted in failure, owing to unreasonable demands or treaty disinclination on the part of one of the interested parties. In this category belong the tariff wars between France and Italy (1888-1892), France and Switzerland (1893-1895), and Germany and Spain (1894-1895).

The power of applying retaliatory duties is usually placed, by legislative enactment, in the hands of the executive. Often, however, this power is either shared by one or both of the legislative houses or is confined by statute to somewhat arbitrary limits. But the President of the United States has been given the widest discretion. Section 5 of an act of August 30, 1890, prescribes that whenever the President is satisfied that any foreign state unjustly discriminates against the importation or sale of American products "he may direct that such products of such foreign state so discriminating against any product of the United States as he may deem proper shall be excluded from importation to the United States"; and the act of September 8, 1916, stipulates "that whenever any country, dependency, or colony shall prohibit the importation of any article the product of the United States and not injurious to health or morals, the President shall have power to prohibit, during the period such prohibition is in force, the importation into the United States of similar articles, or in case the United States does not import similar articles from that country, then other articles, the products of such country, dependency, or colony." The retaliatory provision of 1890 was inserted because of so-called sanitary restrictions on importation of American meats into certain European countries ;

that of 1916 was occasioned by trade interferences incident to the European War. Section 317 of the Tariff Act of 1922 is peculiarly significant in that it takes specific notice of various sorts and shades of discrimination, direct and indirect and open and concealed, and in that it empowers the President to adjust penalties in accordance with the seriousness of the discrimination against our products or our commerce. He may specify and declare such additional rates of duty (not to exceed fifty per cent ad valorem) as will offset the burdens of unequal impositions and discriminations; and, in case these fail to bring about equality of treatment, he may direct that such articles of the offending country "as he shall deem the public interests may require shall be excluded from importation into the United States."

It is obvious that, as a retaliatory measure, prohibition is too sweeping; no President would apply it except in most extreme cases. Additional duties are more likely to be applied; but, while many tariffs authorize such duties (French, German, and Japanese, for example), none of them have been put into force except in cases of tariff wars.

Interstate Preferential Duties. — Preferential duties may have for their purpose the development or maintenance of closer economic relations between certain states. They may be employed when two countries are politically united, but the peculiar character of their economic development prohibits entire freedom of trade, as was the case formerly in Norway and Sweden. Sometimes they are resorted to where free trade between two states or territories is contemplated, but where this can be brought about only gradually if serious disturbance of industrial conditions is to be avoided. Thus free trade between the United States and Porto Rico and between Russia and Finland was preceded by interstate tariff reductions. Likewise two or more politically independent states may have such close commercial relations that complete economic sepa-

ration would lessen their industrial independence. This is the explanation for the preferential customs duties between Spain and Portugal down to 1913. The only countries which grant more favorable treatment to imports from the United States than to imports from other countries are Cuba and Brazil (prior to 1923); in the former case, preference rests, in part at least, on peculiar political and geographical relations, and in the latter, on peculiar trade relations. Goods passing over the frontier between Ecuador and Colombia are reciprocally admitted free of duty. Finally, the best example of interstate preferential duties exists in the so-called customs union, or Zollverein, in which several independent states unite upon a basis of free trade among themselves and a common customs tariff for commercial intercourse with foreign countries. The most conspicuous example of such a union was the German Zollverein formed in 1834. A recent development in this line is the customs union established between Belgium and Luxemburg in 1922. Such states as Australia, South Africa, Germany, Canada, and the United States are in reality great tariff unions as well as political unions. The American Constitution gives Congress the right to regulate commerce with foreign nations and among the several states, the only restriction being that "all duties, imposts, and excises shall be uniform throughout the United States." The other customs unions are organized on much the same basis as the American union. Such a development presupposes, on the one hand, a partial loss of individual sovereignty and, on the other hand, the growth of centralized political authority.

Colonial Preferential Duties. — The régime of monopoly and prohibitions which characterized colonial trade policy during the Mercantilist period yielded in large measure to the liberalizing influences of the free-trade era in Europe. But, during the past half century, the rising tide of nationalism and protectionism and of interest in assured supplies of raw

materials, assured markets for industrial products, and widening opportunities for investment, has brought a decided reaction toward preferential relations — a reaction reënforced by the World War.

To-day three prevalent types of colonial tariff policy may be distinguished: (a) The *open-door* policy under which the tariff of a colony makes no distinction between the products of the mother country and those of other countries; (b) the policy of *tariff assimilation*, under which mother country and colony constitute a customs union with free trade between them, while the tariff of the mother country is applied to imports into the colony from foreign countries; and (c) the *preferential tariff* policy in the stricter sense. It is true that assimilation represents the extreme of preference; but a preferential tariff system as commonly thought of is one in which the mother country and the colony have different tariffs and in which there is partial or entire exemption from duty for the trade between them.¹

The open-door policy² still obtains in many colonies, including those of Belgium and the Netherlands; some of those of France, Spain, Portugal, and Italy; many of the British Crown colonies; American Samoa; and, with certain limitations, some of the Mandatories under the League of Nations; but for a generation it has been gradually giving place to assimilation or to more restrictive preference. The tendency in France, Japan, and the United States has been toward assimilation; Porto Rico, Alaska, and Hawaii are cases in point. The principle of preferential tariffs is thoroughly applied to most of the Portuguese colonies and in varying forms and degrees to some possessions of France, Italy, Spain, and the United States. The Philippines, the Virgin Islands,

¹ See GREGORY, *Tariffs*, 251 et seq.; and U. S. Tariff Commission *Report on Colonial Tariff Policies*, for extended discussions.

² On "open-door areas," see GREGORY, 34-38.

and Guam fall into this classification, since each has a separate tariff, although their products enter continental United States duty-free as do mainland products into each of these islands. The British Empire presents a growing network of preferential provisions and agreements. The United Kingdom, New Zealand, Cyprus, and Fiji extend preferences to all members of the Empire; Canada, to the United Kingdom, New Zealand, South Africa, British West Indies, and some of the other Crown colonies; South Africa, to Canada, New Zealand, the United Kingdom, and Australia; Australia, to the United Kingdom and South Africa; and the West Indies, to Canada and the United Kingdom. Aside from their wide sweep and the vast importance of the parties to them, these tariff arrangements are especially noteworthy (*a*) because they were initiated by the self-governing Dominions which granted concessions to imports from the mother country without promise or prospect of reciprocal favors and (*b*) because Britain, unlike other preference-granting powers, has a lower and less protective tariff than her important Dominions.

Preferences as to import duties are much more common than as to export duties. They may be conditioned upon transportation of goods in national ships, as is the practice of Spain and Portugal. Preference between the United States and the Philippines is conditioned upon "direct shipment . . . under a through bill of lading," but is applicable to "shipments in bond through foreign territory contiguous to the United States." Trade between the United States and her "assimilated" possessions is construed as coastwise trade and is accordingly restricted to ships of American registry. Samoa is the only American possession receiving preferential treatment without granting any preference in return. Preferences may take the form of reduced minor fees, lower valuation, or more favorable conversion of currencies in time of disturbed exchanges. They may be concealed in a classi-

fication or grouping of commodities in the general tariff which "happens" to subserve the interests of a particular colony or colonizing power.¹ A concealed preference has been defined as "any classification or phraseology which avoids such terms as 'national' and 'foreign,' thus establishing a general and seemingly impartial rule, but which none the less operates to the disadvantage of the foreigner."²

Preferential duties may also be regarded as discriminatory; for a preference granted in favor of one or more countries involves a discrimination against other countries. Whatever the justification of such discrimination, suspicion and resentment are likely to be aroused by it and retaliation and tariff wars may follow. Consequently the present preferential trend in colonial policy is a matter of great international concern.

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A. Consult Chapters V, VI, VIII, and XVIII.

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C. Dictionaries and Encyclopedias as in Chapter I; *Readers' Guide to Periodical Literature; KELLY, Tariffs of the World.*

D. ASHLEY, *Modern Tariff History*; CARR, *Judicial Interpretation of Tariffs*; DIETZEL, *Retaliatory Duties*; FISK, *Middle European Tariff Union*, with bibliography; GOSS, *Tariff Administration in the United States*; GRUNZEL, *Economic Protectionism*; SMART, *Return to Protection*; TAUSSIG, *Some Aspects*; CULBERTSON, *Commercial Policy*; TAUSSIG, *Tariff History*; JONES, *Consular Service*; RUTTER, *Tariff Systems of South America*; HIGGINSON, *Tariffs at Work*; ALLIN, *Preference Reci-*

¹ For examples of concealed preference in the Philippine tariff of 1901, consult WILLIS, *Our Philippine Problem*, 274; *Jour. Pol. Econ.*, March, 1903, pp. 198 et seq.; U. S. Tariff Commission, *Report on Colonial Tariff Policies*, 591.

² Tariff Commission, *Report on Colonial Tariff Policies*, 69.

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SUGGESTIVE TOPICS AND QUESTIONS

1. Trace changes in American law as to basis of valuation for purposes of assessing ad valorem import duties. (Goss, 26-72; *Journal of Accounting*, September, 1909, p. 318; Tariff Acts, 1909, Section 11 of Section 28; 1913, Section III, Subsections L and R; 1922, Title IV, Par. 402.) When was the American valuation plan first proposed? Objections to it then? Would the same objections hold now? (Goss, 43-44; *Commerce Monthly*, August, 1921, p. 12.)

2. Explain the graduated minimum principle of valuation applied in tariffs of 1816 and 1828. What was its purpose? Is it a good principle? Has it appeared in later tariffs? Instances in present tariff law? TAUSSIG, *Tariff History* (see index "Minimum duties"); STANWOOD, *Tariff Controversies*, Vol. II (index "Minimums"); ASHLEY, *Modern Tariff History*, 154 *et seq.*

3. What is the nature and purpose of the system of "coefficients" used in fixing duties on imports in certain European countries? *Foreign Tariff Notes*, No. 34, p. 7; No. 38, p. 15; No. 41, p. 239; No. 40, p. 159; *Commerce Reports*, March 13, 1922, p. 648; August 21, 1922, p. 558; KELLY, *Customs Tariffs* (Czecho-Slovakia).

4. What different regulations have been adopted during the post-war period as to valuation of imports from countries with currencies depreciated as compared with the currency of the country of importation? Appreciated as compared with that of the country of importation? GREGORY, *Tariffs*, 363-366; *Foreign Tariff Notes*, No. 39, pp. 105, 129; No. 40, p. 177; No. 41, pp. 274, 283; *Commerce Reports*, November 21, 1921, p. 735; February 6, 1922, p. 337; February 20, 1922, p. 475; March 27, 1922, p. 779; May 15, 1922, p. 444; August 14, 1922, p. 485; Tariff Commission, *Colonial Tariff Policies*, 66, 775, 804, 809.

5. Trace the tariff history of one of the overseas possessions of the United States from the time of its acquisition to the present. Tariff Commission, *Colonial Tariff Policies*, 571-628.

6. Customs duties are levied in the United States only on goods imported from foreign countries. Are the Philippines and Porto Rico foreign countries? If not, may we levy duties on goods imported thence? The Constitution states that "all duties, imposts, and excises shall be uniform throughout the United States." Are the Philippines and Porto Rico a part of the United States? If so, must not the same rate of import duties be applied to them as to the rest of the United States and must there not be free trade between them and continental United States? Tariff Commission, *Colonial Tariff Policies*, 577; House Doc. 509, 56th Cong., 2d Sess.; *De Lima vs. Bidwell*, 182 U. S. 243; *Dooley vs. U. S.*, 182 U. S. 222; *Armstrong vs. U. S.*, 182 U. S. 243; *Goetze vs. U. S.*, 182 U. S. 221; *Fourteen Diamond Rings vs. U. S.*, 183 U. S. 176; *Downes vs. Bidwell*, 182 U. S. 244; WILLOUGHBY, *American Constitutional System*, Chs. 10 and 14.

7. To what extent do preferential tariffs affect favorably trade between colonies and mother country? Tariff Commission, *Colonial Tariff Policies*, 70-77, 409, 597; SMART, *Return to Protection*, Ch. 23; HERBERT AND MONTAGUE, *Canada and Empire*; ALLIN, *Preference, Reciprocity and Annexation*; CHOMLEY, *Protection in Canada and Australia*.

8. Outline the preferential system of the British Empire. Why not one customs union for the whole empire? GREGORY, *Tariffs*, 266-298; BRYCE, *International Relations*, 36; Tariff Commission, *Colonial Tariff Policies*, 693-714.

CHAPTER VIII

TARIFFS AND TARIFF SYSTEMS

Introduction. — A tariff is a table or scale of charges; thus there are railroad tariffs, insurance tariffs, customs tariffs, and the like. The origin of the term is traced to "the little Spanish coast town of Tarifa from which in the olden days the boats of its feudal lord sallied forth to demand toll of every passing ship. This action was only the forerunner of what happens now in every harbor the world over"; and tariff, in the narrower and more familiar sense, has come to be identified with "the toll demanded of foreign goods before they may enter domestic markets."¹ A customs tariff is a systematic arrangement of customs duties. It is spoken of as a tariff law, act, or bill and is usually divided, for purposes of convenience, into schedules, each schedule comprising the principal articles of allied groups which are subdivided into numerous sections with duties or rates for each section. The general arrangement within these schedules and sections is commonly alphabetical.

A tariff law is based upon the general economic and political conditions of a country and represents a compromise between the conflicting interests of producers and consumers. It also furnishes a basis upon which commercial relations with foreign countries may be regulated. The general character of a customs tariff depends largely upon its purpose, whether it is primarily for protection or primarily for revenue. In the latter case but few articles may be taxed. The pre-war revenue tariff act of Great Britain, for example, contained only

¹ WHEELPLEY, *Trade of the World*, 199.

about forty rates and eighteen different classes of articles and could easily be printed on four or five sheets of ordinary sized paper. On the other hand, the protective tariff of Germany is divided into nineteen chapters, contains nearly one thousand numbers or rates, and occupies over thirty quarto pages of printed matter. This contrast should not, however, be ascribed too exclusively to the protective purpose in the one case and the revenue purpose in the other; for some of the South American tariffs present a long list of commodities dutied primarily for revenue, while much of the length of the German tariff is doubtless due to the predominance of specific rates and the consequent minuteness of classification.

Contents of the American Tariff Act. — The first tariff act of the United States, passed on July 4, 1789, comprised six sections with about eighty different rates, and might easily be printed on three sheets of ordinary sized paper. For some decades American tariff legislation grew in bulk and complexity through the widening application of import duties for both revenue and protective purposes. But not until 1846 did schedules appear in our tariff acts, and then only as lettered groups of articles which happened to bear the same *ad valorem* rate of duty. During the Civil War these schedules lapsed, to be revived in 1883 in the form which has since been retained and which finds its parallel in most countries.

The Fordney-McCumber Tariff Act of 1922 fills more than one hundred and forty printed pages. It is divided into four titles whose general scope and arrangement are indicated below:

TITLE I is devoted to the "Dutiable List." It consists of schedules numbered 1 to 14 inclusive, each of which relates to a special class of articles. The schedules are in turn made up of several paragraphs each of which sets forth the import duties on a given article or on a closely related group of articles falling within the classification with which the schedule

deals. There are 495 paragraphs in all, each of which is numbered according to a plan indicated in the following scheme :

SCHEDULES	PARAGRAPH NUMBERS
1. Chemicals, Oils, and Paints	Nos. 1 to 93
2. Earths, Earthenware, and Glassware	" 201 to 238
3. Metals and Manufactures of	" 301 to 400
4. Wood and Manufactures of	" 401 to 410
5. Sugar, Molasses, and Manufactures of	" 501 to 505
6. Tobacco and Manufactures of	" 601 to 605
7. Agricultural Products and Provisions	" 701 to 780
8. Spirits, Wines, and Other Beverages	" 801 to 814
9. Cotton Manufactures	" 901 to 921
10. Flax, Hemp, and Jute, and Manufactures	" 1001 to 1023
11. Wool and Manufactures of	" 1101 to 1120
12. Silk and Silk Goods	" 1201 to 1213
13. Papers and Books	" 1301 to 1313
14. Sundries	" 1401 to 1460

TITLE II, headed "Free List," embraces Schedule 15, which is made up of articles not subject to import duties, arranged as are articles in the preceding schedules in paragraphs numbered 1501 to 1707.

TITLE III, "Special Provisions," deals with such matters as bounty-fed imports, indication of country of origin, prohibited articles, articles admitted free under bond, bonded warehouses and manufacture in bond, drawbacks, reimportation of domestic products, discriminatory duties on goods coming in foreign ships, discretionary power of the President relating to equalizing costs of production and to meeting unfair competition or discriminations, and the added functions of the Tariff Commission.

TITLE IV, "Administrative Provisions," covers some forty-eight pages and constitutes a notable revision of customs administrative legislation.

The Free List; Unenumerated and Prohibited Articles. — In some tariff laws, such as the tariff of Great Britain, certain articles are enumerated as dutiable or as prohibited, and all

other goods are allowed entrance free of duty. Many of the European tariff laws contain schedules or groups in which are to be found interspersed not only dutiable or prohibited articles but articles which are entered duty free. Other tariff acts contain a special or separate "free list" and stipulate a certain uniform rate of duty for all unenumerated articles. This is a feature of the Canadian and of the American tariff laws. In the American act of 1922, Title II is, as we have seen, devoted exclusively to the free list; paragraph 1459 of Title I provides "that there shall be levied, collected, and paid on the importation of all raw or unmanufactured articles not enumerated or provided for, a duty of 10 per centum ad valorem, and on all articles manufactured, in whole or in part, not specially provided for, a duty of 20 per centum ad valorem"; and paragraph 1460 stipulates "that each and every imported article not enumerated in this Act, which is similar, either in material, quality, texture, or the use to which it may be applied to any article enumerated in this Act as chargeable with duty, shall pay the same rate of duty which is levied on the enumerated article which it most resembles in any of the particulars before mentioned; and, if any non-enumerated article equally resembles two or more enumerated articles on which different rates of duty are chargeable, there shall be levied on such non-enumerated article the same rate of duty as is chargeable on the article which it resembles paying the highest rate of duty." Imported goods manufactured of two or more materials are dutiable under our law at the highest rate chargeable on the "component material thereof of chief value," that is, "that component material which shall exceed in value any other single component material of the article." In some countries it is customary to apply to such commodities the rate on the component material which is subject to the highest rate of duty.¹

¹ For more extended discussion of the subject of this paragraph, see GREGORY, *Tariffs*, 100-115.

In the American tariff, prohibited articles do not form a separate schedule; some of them are interspersed among the dutiable and free items in the schedules; others occupy special paragraphs in Title III; and several must be sought in other statutes.

Tariff Enactment and Administration. — The enactment and administration of tariffs depend upon the political character and constitution of a state. They usually come within the purview of the central authority. In the United States both tariff enactment and administration are matters of the federal government, the Constitution providing that Congress shall have power to lay and collect taxes, duties, imposts, and excises and to make all laws which shall be necessary and proper for carrying these powers into effect. In states lacking political unity the enactment and administration of tariff laws are sometimes regulated by reciprocal arrangements between central and state or local authorities. Thus in the German Empire the enactment of tariff laws was, according to the Constitution, solely a matter of imperial government, while the collection and administration of the duties were left to the several states, subject however to imperial supervision. In Brazil export duties are, for the most part, levied by the several states, not by the federal government. Some states have nominally the power to enact customs tariff laws, but these laws are administered by an international board; this is the situation in China. Temporary administration of customs in weak states by strong foreign powers is illustrated by the customs receivership and financial supervision undertaken by the United States in the Dominican Republic in 1907 and in Haiti in 1916.

Territorial Scope of Tariff Laws. — Usually tariff laws are coextensive with the political boundaries of states — exclusive of their colonies. Thus the tariff law of Great Britain is applicable to England, Scotland, and Wales, but not to

English colonies which have special tariff acts of their own. There is, however, as we have seen, a tendency toward tariff assimilation on the part of several colonial powers. The French tariff, for example, extends theoretically at least to a great number of French colonies, but not to all, while that of the United States applies to all continental and island territory except the Philippines, the Virgin Islands, Guam, Tutuila (American Samoa), and the Panama Canal Zone. In some cases the tariff law does not apply to all the contiguous territory of a state, and in other cases it includes foreign territory. Thus the German customs union (Zollverein) did not include the free cities of Hamburg and Bremen until 1888, while Trieste and Fiume, bordering on the Adriatic, were not incorporated into the Austro-Hungarian customs union until 1891. On the other hand, the Austrian communities of Jungholz and Mittleberg and the independent duchy of Luxemburg were so economically dependent upon Germany that they were incorporated into the German customs union. The World War has necessitated many readjustments; Luxemburg, for example, which under the Treaty of Versailles ceased to be a part of the German Zollverein, in 1921 identified itself with Belgium for customs purposes and Dantzic has been incorporated into the customs system of Poland.

Revenue Effects of Anticipated Tariff Changes. — Contemplated changes in tariff laws influence imports which are large in view of a probable rise in rates, as was the case in the United States during the months preceding the enactment of the high tariffs of 1890 and 1897 and small when existing rates are likely to be lowered, a condition existing in the United States prior to the enactment of the tariff acts of 1894 and 1913. Such conditions are disturbing to business. The French law of 1897 attempted to lessen this evil by temporarily applying the new rates when a law is proposed which raises the rates of duty on cereals, wine, animals, and fresh meat.

Should the proposed bill fail to become a law, the excess revenue thus collected is refunded. Somewhat similar regulations have been resorted to in Spain, Greece, Italy, England, Canada, Australia, and other countries, in some cases applicable to much wider range of commodities. During the consideration of the Dingley Bill by the House in 1897, an amendment was offered making the proposed duties applicable to all articles imported between April 1 of that year and the date of the enactment of the new law. While this amendment failed to pass, its protracted consideration tended to check heavy importations. In 1917 the United States Tariff Commission recommended to Congress a somewhat similar policy; but, "in view of the difference between American and European legislative and constitutional systems," suggested the requiring of bonds as security for eventual payment of added duties in case rate-raising legislation were finally enacted, instead of actual payment in anticipation of its enactment.¹ In May, 1922, the Swedish government prohibited the importation of coffee pending action on a bill proposing to increase the duty on that commodity.

Tariff Commissions and Tariff Making. — It has become increasingly apparent that good tariff making is not to be expected as the handiwork of legislators or legislative committees alone. The complexity of modern tariff schedules, the minuteness of their classifications, the diversity of industries affected by them, the technicalities of their administration, and the importance of their correlation with the practices of other nations, combine to demand the sustained work of experts. Various nations have set up commissions or boards to aid their legislatures in the formulation of tariff measures. These bodies may be permanent, or they may have to do merely with a given piece of legislation. They may be empowered simply to gather and make available facts

¹ Tariff Commission *Report on Interim Legislation*.

and materials for the use of legislators; or, in addition, to make recommendations as to legislation; or even to draft bills for the consideration of the law-making power. They may also be given certain administrative and quasi-judicial functions.

At different times three such bodies have functioned in the United States. Each was appointed by the President. The tariff commission of 1882 consisted of nine members, all protectionists, and was created solely to make investigations and recommendations for the tariff revision of 1883. In 1909 the so-called Taft Tariff Board was appointed primarily to assist the President in determining what countries, if any, were so unduly discriminating against American exports as to merit the application of the maximum rates of the Payne-Aldrich law; but it was continued for the investigation of the costs and conditions of production at home and abroad "with a view of determining to what extent existing tariff acts actually exemplify the protective principle." As originally constituted, its members were all Republicans; but, after the Democrats gained control of the House, two members of their party were added, and finally in 1912 its appropriations ceased and its cost investigation work was transferred to the Department of Commerce.

The United States Tariff Commission. — (a) *Its Establishment.* By act of September 8, 1916, the present United States Tariff Commission was created, consisting of six members, not more than three of whom shall belong to the same political party. Like the Federal Trade Commission and the Interstate Commerce Commission, it is presumptively a permanent body and is not identified with any department of government; but, unlike these other bodies, it was not invested with administrative or judicial authority. Neither was it to determine tariff policies, but rather to gather and prepare information for the assistance of Congress in formulating legislation

in accordance with such policies as legislators should decide upon. The law of 1916 declares, among other things, "That it shall be the duty of said commission to investigate the administration and fiscal and industrial effects of the customs laws of this country now in force or which may be hereafter enacted, the relations between the rates of duty on raw materials and finished or partly finished products, the effects of ad valorem and specific duties and of compound specific and ad valorem duties, all questions relative to the arrangement of schedules and classification of articles in the several schedules of the customs law, and, in general, to investigate the operation of customs laws, including their relation to the Federal revenues, their effect upon the industries and labor of the country, and to submit reports of its investigations as hereafter provided ;

"That the commission shall have power to investigate the tariff relations between the United States and foreign countries, commercial treaties, preferential provisions, economic alliances, the effect of export bounties and preferential transportation rates, the volume of importations compared with domestic production and consumption, and conditions, causes, and effects relating to competition of foreign industries with those of the United States, including dumping and cost of production."

Among its published reports are those on *Reciprocity and Commercial Treaties*, *Dumping and Unfair Foreign Competition*, *Revision of Administrative Laws*, *Free Ports and Free Zones*, *Colonial Tariff Policies*, *Handbook of Commercial Treaties*, *Preferential Transportation Rates*, and a series of *Tariff Information Surveys* dealing with the various commodities in the tariff schedules and designed to serve Congress in the post-war revision of the tariff.

(b) *Its New Duties under Act of 1922*. — As we have seen in earlier chapters, the Tariff Act of 1922 (Sections 315-318)

gives the President large discretionary powers as to rates and restrictions upon imports which, upon investigation, are found necessary to equalize costs of production, to cope with unfair methods in import trade, or to assure equitable treatment of American products and commerce in foreign lands. The changes which these "flexible" features have occasioned in the work and organization of the Tariff Commission are well summarized in the following excerpt from an article by a member of the Commission, William S. Culbertson, in the *Yale Review* for January, 1923:

"The law provides that all investigations under the new sections of the law are to be made by the United States Tariff Commission. Prior to this enactment, the duty of the Commission was to make general investigations. It had no power whatever over rates and could offer to Congress no recommendations except those of a general character. It was granted extensive powers to obtain accurate information, particularly from the trades and industries affected with a tariff interest, and it developed a staff of men professionally equipped and technically trained for handling tariff problems. Thus the accumulation of a large body of carefully interpreted scientific fact was made possible. These general powers remain in the Tariff Commission; in fact, they have been greatly extended, and in addition the Commission has now laid upon it the duty of investigating particular cases and of making specific recommendations which may result in a change of rate by Presidential proclamation.

"The Commission has, as a result of these new responsibilities, completely reshaped its organization. Under the Commission there are now four broad divisions: (a) the office of the chief investigator; (b) the office of the chief economist; (c) the legal division; (d) the secretary's office.

"The secretary handles the routine business of the Commission. To the legal division are referred questions of customs laws and procedure and any other legal question that may arise in the Commission's work. General investigations which the Commission may conduct under its general investigational powers will be supervised by the chief economist, and special investigations made necessary by the new powers vested in the President will be under the direction of the chief investigator.

"The Commission's organization under the direction of the chief economist and the chief investigator consists of a series of divisions each with

a chief and other experts. These divisions deal with chemicals, pottery and glass, metals, wood and paper, sugar, agricultural products, textiles, leather, sundries, preferential tariffs and commercial treaties, and accounting. In addition, the Commission has provided for the establishment of a New York office and for the conduct of investigations in foreign countries.

"The work of the Commission's staff is coördinated in an Advisory Board, which reports only to the Commission and is under its immediate direction. The chief investigator is chairman of this Board. Its other members are the chief economist, a representative of the legal division, and the chief of the division of the Commission concerned in the subject matter under consideration at any given time."

Tariff Policies and Tariff Systems. — "In recent times most European States have framed their tariffs with a view not only to protecting domestic industry and trade against foreign imports, but also to the encouraging of export trade by securing, through tariff bargaining, concessions in duties from other countries." With the growing complexity of commercial relations and the great diversity of conditions and aspirations in the several nations, no little variety of tariff systems has developed. An understanding of them may be aided by keeping the following distinctions in mind: (1) Schedules of duties established by law are called *statutory tariffs*; those established by treaty are known as *conventional tariffs*. (2) From the standpoint of form, distinction is drawn between *single-schedule tariff systems* and *multiple-schedule tariff systems*, the former employing only one set of schedules and the latter two or more sets. The former is almost always statutory, while the latter may be either entirely statutory or partially conventional. There are many variants of the multiple system; but its typical forms are the general-and-conventional, the maximum-and-minimum, and the preferential.

The Single-schedule Tariff System. — The single-schedule system is the simplest of all. It consists of a single list of

customs duties applicable to all goods imported, without distinction as to place of origin or exportation. Such a system is, with rare exceptions, solely an act of the legislative branch of the government. The executive is relieved of all responsibility beyond the actual assessment and collection of duties, and no difficulties arise concerning the most-favored-nation clause. But over against these advantages of simplicity must be set certain defects, which explain why the single tariff obtains in so few of the leading commercial nations to-day. It takes account primarily of home industry and considers foreign commercial relations only when the latter are in complete harmony with the interest of domestic producers. Nations having such a tariff are handicapped therefore in developing their foreign commerce, since the system precludes the securing of concessions from other countries in return for reciprocal favors. This disadvantage, coupled with the increasing competition in the field of international trade, has led many states to modify their tariff policy during the past generation. The tendency toward a multiple-schedule system has been especially marked in protectionist countries. The single-schedule system obtains in Belgium, Denmark, and the Netherlands as well as in most of the less industrially advanced nations, including the Central and South American States. In form, at least, it has been in vogue in the United States throughout our national history, although with some provisions for its modification in the tariff acts of 1890, 1897, 1909, and 1913 and with some effective modifications through reciprocity agreements beginning with the Canadian treaty of 1854.

The General-and-Conventional System. — Under the general-and-conventional system the legislature still fixes only one list of duties; these constitute the *general* tariff applicable to the products of every nation which has no treaty or agreement to the contrary. But conventions, or agreements, are

made with some countries, granting them lower rates on certain articles in return usually for equivalent concessions. Under the most-favored-nation clause of international treaties as interpreted in Europe, the lowest rate granted to any one country is often extended automatically to all nations entitled to most-favored-nation treatment. (*See Chapter XII.*) These combined reductions make up the *conventional* tariff; it is a composite tariff, since each nation bargains for concessions only on those articles in which it is especially interested. For convenience, all these concessions may be set forth in a separate column (or in distinctive type) in the official tariff promulgated by the nation; but they are in force by virtue of treaties and not by force of law, except perhaps indirectly through ratification of treaties embodying conventional rates of duty.

The beginnings of the general-and-conventional system may be traced to the days of Napoleon III. Desiring reductions in the high duties of France, he found it easier to accomplish this purpose through treaty negotiation than through direct legislation by a reluctant parliament. The Cobden treaty with England in 1860 was followed by similar treaties with Belgium, Germany, and other states. Through the operation of the most-favored-nation clause, the French conventional tariff was built up, which was to continue until 1892. Meanwhile in 1891 Germany inaugurated a similar system which was effectively applied down to the World War. The German example was followed to greater or less extent by so many nations of Central, Eastern, and Southeastern Europe, that the general-and-conventional system came to be the dominant one on the Continent. Since the war some realignment is taking place; but this system holds sway in Bulgaria, Switzerland, Greece, Hungary, Italy, Roumania, Sweden, and Japan.

The Maximum-and-Minimum System. — The maximum-and-minimum system resembles the general-and-conventional

in providing two sets of rates, a lower for countries enjoying most-favored-nation treatment and a higher for other countries. But instead of having two rates for only a limited number of articles, as is usual in general-and-conventional tariffs, it has two rates for each article on which duties are imposed. Moreover the minimum schedule is not drawn up by the executive departments of government, as is customary under the general-and-conventional, but is framed by the legislative body as is the maximum schedule. These two sets of rates register the limits within which rate adjustments may be made by treaty or by executive action.

This system originated in Spain in 1877; but after 1892 France became the chief exponent of it. Norway adopted it in 1897, and since the late war it has found acceptance in Austria, Jugo-Slavia, and Portugal. The experience of the United States with such a system has been limited to a provision in the Tariff Act of 1909 for imposing, in addition to the rates set down in the regular tariff schedules, a duty of twenty-five per cent ad valorem upon goods coming from countries which were unduly discriminatory against American products or which failed to accord our products reciprocal and equivalent treatment. While this provision was more or less effective as a bargaining instrument, the American maximum rates were never applied to goods from any country and, within four years, with the change of party control the maximum-and-minimum feature of the law was swept away as was the tariff board whose prime statutory function was to secure information to aid the President in determining what nations should receive the maximum.

Comparative Advantages of General-and-Conventional and Maximum-and-Minimum Systems.¹—Both these systems have been devised in the interest of foreign trade extension; they are bargaining tariff systems. Among the advantages

¹ U. S. Tariff Commission, *Report on Reciprocity and Commercial Treaties*, 505-510.

attributed to the maximum-and-minimum are that (1) it maintains tariff autonomy, since the minimum schedule is statutory and can be revised without awaiting the consent of any other nation; (2) it tends to give security and stability to home industries, since domestic producers know within what limits the executive may act in tariff matters and since changes in those limits require legislative action; (3) it tends to relieve the executive of responsibility; and (4) it makes bargaining possible without transferring to the executive a certain measure of authority in connection with the fiscal machinery.

In favor of the general-and-conventional system it is urged that (1) it assures a measure of stability, since conventional rates are usually established by treaty for a definite and reasonably long period; (2) "in the use which it makes of experts and in its dissociation of tariff problems from questions of domestic politics, it tends to promote continuity of policy and action"; and (3) it provides a maximum of elasticity, because negotiators may be given a freer hand than under a rigid dual tariff, and adjustment to new situations may be effected more promptly than if dependent upon legislative action.

Sound judgment as to the relative merits of the two systems can hardly be reached without due consideration to (1) the conditions, institutions, and aims of the individual nation concerned; (2) the part which thorough commercial work plays in the success of any system; (3) the possibility and practice of adapting either system to meet the exigencies of a given situation; and (4) the fact that combinations and hybrids so commonly eventuate, whatever system is taken as basic. In the American experiment with the maximum-and-minimum system under the law of 1909, executive authority was narrowly restricted, and a general-and-conventional system would encounter peculiar obstacles in the United States because of the method and traditions of tariff making, the disinclination to grant discretionary power to the executive, the

difficulty in securing ratification of treaties once negotiated, reluctance to enter into long-term commercial agreements, and lack of a stable administrative system to assure a sustained commercial policy.

Combinations and Modifications in European Systems.— Any classification of tariff systems must prove more or less artificial. Those in operation in modern Europe, it is true, fall roughly into the categories indicated above, because of certain outstanding features; but peculiarities of commercial situation or international dealing have brought about individualization of systems and consequent deviation from any theoretical type which may be set up. For example, pre-war Germany—the most conspicuous exponent of the general-and-conventional system,—engrafted upon that system some maximum-and-minimum features, especially statutory fixing of limits below which treaty concessions were not to be made. On the other hand, the adoption of the maximum-and-minimum system was followed, in the case of Spain, France, and Russia, by tariff wars, special concessions below the statutory minimum, and complications concerning most-favored-nation treatment, which resulted in a triple or quadruple set of tariff schedules instead of the dual set postulated in the maximum-and-minimum system.

The experience of Spain is most striking. Her tariff of 1877 contained two columns of differing rates of duties, the minimum rates applying to those treaty countries to which she had guaranteed most-favored-nation treatment, and the maximum rates to all other countries. Soon after, the shortage of the French wine supply due to the destruction of the vines by the phylloxera induced Spain to grant France rates in many instances lower than those contained in her minimum tariff, in order to obtain from France special favors for her wine interests. Later other modifications of her minimum rates were made in favor of Germany, Belgium, Italy, Swe-

den and Norway, and Switzerland; and, since all these concessions must be granted to all countries which were guaranteed most-favored-nation treatment by treaty, the effect was the establishment of a third schedule which was "conventional." Finally, by virtue of a reciprocity treaty of 1893, still lower rates were accorded to the products of Portugal. Thus there were evolved four sets of schedules: a maximum, applied only to nations not entitled to most-favored-nation treatment; a statutory minimum, applied only to Colombia and Ecuador; a conventional, extended to most foreign countries; and a preferential enjoyed by Portugal alone. Spain has recently been attempting a thorough readjustment of tariff relations, through wholesale denunciation of treaties and the enactment of a new tariff law with two sets of rates so widely different as to invite all nations to negotiate for favorable treatment in return for reciprocal concessions to Spanish exports. The first rates are, as a rule, two or three times as high as the second, and are to be applied to such nations as do not open negotiations within a reasonable length of time.

Preferential Tariff Systems.— "A 'preferential' tariff system takes as its starting point a general tariff, that is, a schedule of rates intended to apply to most countries ('in general'); and alongside of this it establishes special schedules consisting of lower (or higher) rates intended to apply to imports from one or more countries specifically designated by the legislature, or to countries which fulfill or may fulfill conditions laid down by the legislature. . . . Like the general-and-conventional and the maximum-and-minimum systems, it requires at least two schedules; unlike the former, it is autonomous; unlike the latter, its minimum schedule is intended not for the most-favored nations, but for specially 'preferred' nations. Under other systems it frequently happens that special treatment, excepted from the operation of the most-favored-nation clause, is established between countries in respect to whose relationship there are peculiar circumstances; but this is usually accomplished by agreement. In the case of Spain and Portugal, for instance,

the preferential treatment is mutual and is based on a reciprocal agreement. But where a 'preferential' tariff system, in the accepted sense of the term, is in use, one country establishes by its own legislation a régime of special treatment in favor of another or others. . . . No state in Europe employs a tariff which can be designated as a 'preferential' system [unless the recent legislation of the United Kingdom in favor of British Empire products be so classified.]

"The Canadian system affords the most conspicuous example of this. In the Canadian tariff there are three schedules of duties, all enacted by law — a general, an intermediate, and a British preferential schedule. The rates of the general schedule are applied to imports from all countries not entitled by law or treaty to special treatment. The intermediate schedule is intended as an instrument for negotiation — its rates may be applied to the products of any country, in consideration of benefits satisfactory to the Governor in Council. Since 1897 Canada has given preference to imports from the United Kingdom. The preference consisted originally of a reduction of one-eighth from the general duties on almost all dutiable articles; in 1898 this reduction was made one-fourth; and in 1900 it was made one-third. In 1906 the uniform deduction was discontinued and specific rates were prescribed for British goods." ¹

As we have seen in Chapter VII, other self-governing members of the British Empire have followed the example of Canada, and preferential practices of some sort are in force between certain other powers and their colonies. Since 1911, Brazil has enacted each year a preferential schedule on a limited list of American products and, from 1920 to 1922, on a more limited list of Belgian products.

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¹ U. S. Tariff Commission, *Report on Reciprocity and Commercial Treaties*, 462, 505-506.

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E. "Conventional Tariff System," *Annals*, 32: 367-382; "Maximum-and-Minimum System," *Ibid.* 29: 478 and 32: 394-398; "Dual Tariff System," *Am. Econ. Assoc. Quar.*, 10: 301-313; "Maximum-and-Minimum Features of Payne-Aldrich Act" (*Journal of Accounting*, September, 1909, pp. 318-320; *Jour. Pol. Econ.*, March, 1910; *Atlantic*, October, 1909, p. 567; *Quar. Jour. Econ.*, November, 1909); "Taft Tariff Board" (*Jour. Pol. Econ.*, 18: 183-195; 19: 361-384; 20: 492-508; *Pop. Sci. Mo.*, October, 1910, p. 386); "U. S. Tariff Commission and Its Work," *No. Am. Rev.*, January, 1918; "Scientific Tariff Revision" (*Am. Econ. Rev.*, 10: 417-426; *Proc. Acad. of Pol. Sci.*, 9: 32-33); CULBERTSON, W. S., "The Making of Tariffs," *Yale Review*, January, 1923, pp. 255-275.

SUGGESTIVE TOPICS AND QUESTIONS

1. What were the circumstances leading to United States control over the finances in Dominican Republic and Haiti? What was the nature of the arrangement? What problems does such intervention suggest? Is there a better solution for them? CULBERTSON, *Commercial Policy*, 208-217, 328-337; *Annals*, 30: 93-103; *Ibid.*, March, 1922, pp. 109-200; *Quar. Jour. Econ.*, 21: 405-426; *Rev. of Reviews*, 31: 29-38 and 36: 103-105; STUART, *Latin America and the United States*, Chs. 10-11.

2. An American writer attempts to prove that the tariff of 1890 was more of a free-trade law than the tariff of 1883 because the free list of the former contained more articles than the free list of the latter. Wherein lies the fallacy of such a presentation? HAMILTON, *Current Economic Problems*, 333-335.

3. Is scientific tariff-making possible? Can the tariff be taken out of politics? Is a tariff commission worth while? *Proc. Acad. Pol. Sci.*, 9: 32-33; *Am. Econ. Rev.*, 2: 19-42; TAUSSIG, *Free Trade, Tariff, and Reciprocity*, Ch. 10; CULBERTSON, *Commercial Policy*, 133-135; *No. Am. Rev.*, January, 1918 (CULBERTSON); *Rev. of Reviews*, 64: 287-291; *New Republic*, 19: 375-376; *Outlook*, January 4, 1922, pp. 27-29.

4. What is the tendency in regard to the employment of tariff commissions? *Annals Am. Acad.*, 94: 183; RUTTER, *Tariff Systems of South America*, 90-92; *Commerce Reports*, September 12, 1921, p. 115.

5. Write an extended paper on the purposes, organization, methods, and accomplishments of the present United States Tariff Commission. See Reports of the Commission; *No. Am. Rev.*, January, 1918; *Am. Econ. Rev.*, 10: 417-426; *New Republic*, 19: 375-376; *Rev. of Reviews*, 64: 287-291; *Outlook*, January 4, 1922, pp. 27-29; *Yale Review*, 12: 255-275; BERNHARDT, *Tariff Commission*.

6. Trace the various modifications of the general tariff system in the United States since 1890. Should this country adopt a multiple-tariff system? If so, which is preferable, general-and-conventional or maximum-and-minimum? See especially, Tariff Commission *Report on Reciprocity and Commercial Treaties*, pp. 439-510; *Annals*, 94: 160-175; CULBERTSON, *Commercial Policy*, Ch. 10.

7. Summarize the U. S. Tariff Commission *Report on Interim Legislation*.

8. Classify the defects in American tariff-making methods illustrated in the following selections. Which of them would a tariff commission be likely to remedy? TAUSSIG, *Free Trade, Tariff, and Reciprocity*, Ch. 9; *Am. Econ. Rev.*, 10: 425; *Annals*, 64: 56-65; HAMILTON, *Current Economic Problems*, 327-333.

CHAPTER IX

EXPORT AND IMPORT FAVORS

Direct or Open Export Bounties. — A bounty is a premium paid, usually by a government, to persons engaged in an industry selected for special encouragement. Payment may be in proportion to total output or in proportion to quantity exported. If on the former basis, it is a production bounty; if on the latter, an export bounty. Either may serve as a stimulus to exportation; but the latter is specially designed to afford such stimulus. Export bounties were common under the Mercantilist System when every effort was made to increase exports, especially of manufactured goods, in order to create a favorable balance of trade. They were also employed when the domestic market was overstocked, in order to prevent an inland price depression or in order to aid a young industry in its efforts to obtain a footing in foreign markets. In modern commercial politics, while premiums of this kind have played an important rôle in the case of a few tariffs, their use is becoming less general.

There are two classes of export bounties, direct or open and indirect or concealed. One of the best examples of the former is to be found in English commercial politics. In 1689 the British government passed a law, which was not repealed until 1814, granting an export bounty on wheat, providing the domestic selling price did not exceed a certain amount. France formerly paid direct bounties on many articles, and the Australian colonies have granted them on certain agricultural exports. The most prominent export bounties during the last century have been those paid on European beet sugar.

Some of these have been direct and others indirect. Germany in 1891 enacted a law allowing a direct bounty upon this commodity. The law stipulated that this bounty should be lowered in 1895 and entirely abolished in 1897; but owing to the decline in the price of sugar, the prevalence of premiums in other countries, and the influence of the sugar producers, the direct bounty was doubled in 1896. The conclusion of the Brussels Sugar Convention in 1902, however, resulted in the virtual abolition of sugar bounties in most of the European countries. So far as the United States is concerned the export bounty system has never found a place in American commercial politics, although recommended by Hamilton in his famous Report on Manufactures.

Indirect or Concealed Bounties. — Indirect bounties have generally resulted from the inadequate administration of internal tax remission on domestic products destined for exportation. This is especially the case regarding beet sugar and, to a less extent, brandy. These articles are subject to an inland tax in most of the countries of Western Europe, the tax generally being levied upon the raw or half manufactured product. Upon the exportation of the finished article, the amount of the internal tax is remitted; but the impossibility of correctly estimating this causes governments to err in favor of the exporter by refunding more than the original excise, the excess being in the nature of an indirect or concealed bounty.

This form of a bounty is well illustrated by the sugar tax in Germany, where the excise was levied on the raw product (beets) and refunded on the finished product (sugar), when exported. Formerly it was estimated that it took twenty pounds of beets to make one pound of sugar, so that when a German manufacturer exported one pound of sugar, the government refunded a sum equal to the excise paid on twenty pounds of beets. It is readily seen that under such

conditions when, because of better methods of manufacture or of agriculture, one pound of sugar could be extracted from less than twenty pounds of beets, more was paid back on the finished product, when exported, than was received in the form of the excise on the raw material. Although the government attempted to remedy this by constantly reducing the ratio, the advance in the technique of agriculture and of manufacture more than kept pace with the rate of reduction so that there was continually paid to sugar producers a concealed bounty. This continued until 1891 when the government replaced the indirect by a direct bounty. An American law of 1795 imposed an internal revenue tax on snuff mills and, in turn, provided for a drawback of six cents for each pound of snuff exported. It chanced that the drawback exceeded the tax and that snuff began to be manufactured in large quantities for the sake of the drawback; the law was accordingly suspended and finally repealed.

A concealed bounty has also, in many instances, been allowed in the case of drawbacks where duties have been received on imported raw materials and more than refunded upon the reexportation of the finished product. Prior to 1883 the United States government, for example, graded import duties on sugar according to the "Dutch standard," under which sugar content is supposed to be indicated by color; the darker the color, the lower the saccharine quality. Consequently sugar of high saccharine content was often artificially discolored, imported into the United States at low rates of duty, refined in this country, and then, upon exportation, it commanded a drawback much in excess of the import duty actually paid on the discolored raw material.¹

It is a general policy for states owning railways to offer, in many instances, especially low rates on outgoing freight, or to exact, on the other hand, relatively higher rates on in-

¹ TAUSING, *Some Aspects*, 100.

coming freight. While the latter operates in the same way as an import duty and tends to discourage importation, the former acts as an encouragement to exportation and is in the nature of an indirect or concealed bounty.

While bounties are generally paid by the government, they may be paid by private individuals or by corporations. Thus privately owned railroads often grant special rates on freight destined for foreign markets. An organization of Austrian cotton spinners in 1897 paid an export bounty on cotton yarn for a certain period in order to save the home market from overproduction and the consequent depression in price. A somewhat similar arrangement has existed in Germany among steel makers.

Export Bounties and Some of Their Consequences. — The general purpose of an export bounty is to encourage exportation. Its general effect is to lower the price in foreign markets, and it is sometimes designed to enhance domestic price by avoiding a glut in the home market. It presupposes at least an equivalent protective import duty; otherwise both the purpose and the effect of the bounty would be defeated, since the entire output of the commodity in question might be exported and some of it reimported for domestic use.¹ Even then, it may not yield the returns anticipated. For example, the aim of the English bounty on wheat exported (1689) was to raise the price by encouraging exportation and thus rendering wheat scarcer in England; its effect was to induce the grain raisers to sow larger fields, to produce more than the market demanded, and by competing with one another to keep domestic prices down for many decades. Moreover, bounties are not generally popular nor widely applicable, because they consume revenue and yield none in return and because they are more obviously a tax than are ordinary customs duties.

¹ GRUNDEL, *Economic Protectionism*, 318-319.

At the same time export bounties are likely to lead to measures of retaliation or of self-defense on the part of other countries, since domestic production is discouraged and protective import duties are rendered ineffective. Here again the European sugar bounty experience is apposite. When only a few countries paid direct or indirect bounties on sugar and the supply of the commodity was hardly equal to the demand, sugar producers prospered and sugar consumers were not overburdened by the tax; but when all beet-sugar-producing countries of Europe began rivaling each other in the payment of all kinds of bounties, the effect was a large overproduction with the corresponding price depression, not only in foreign but also in domestic markets. This situation was especially intensified by that form of indirect bounty whereby a proportionally higher premium was paid in many countries, notably in France, for beets with a high degree of saccharine matter or for sugar produced by most improved methods. These conditions not only involved a great burden to the home government, but also became a losing business to many domestic sugar producers. While foreign consumers, especially in Great Britain and her colonies and in the United States, were having the benefit of cheap sugar, this was offset by certain disadvantages. English sugar refiners were driven out of business in the home market and the competition of the bounty-paid sugar with cane sugar was disastrously affecting the interests of the latter in the British West Indies. To offset this a countervailing duty was levied on all sugar imported into British India from countries paying an export bounty. A similar provision had already been enacted by the United States in 1890. Because of these countervailing duties, coupled with opposition on the part of England and certain other countries, the third International Sugar Conference held at Brussels in 1902 formulated a convention designed to equalize competition of sugar on the international

market. It prohibited all bounties and special exemptions from duty, limited the import duty to be levied by sugar-producing countries, and provided for countervailing duties on sugar imported into the signatory countries from countries granting bounties. It was signed by Great Britain and all important European sugar-growing countries except Russia, who joined later with certain reservations.

Drawbacks. — A drawback is a refund, in whole or in part, either of internal revenue taxes on goods exported or of customs duties on imported merchandise subsequently re-exported. This payment may be upon articles re-exported in the same condition as imported. Such drawbacks were formerly common, but now they are less important, owing to the development of the bonded warehouse system, better means of transportation and communication, and more efficient tariff regulations especially as regards the transit trade. Drawbacks may also be applied to imported raw materials or half-manufactured products when re-exported in a more advanced state. This form of drawback has become more and more important in modern commercial policies. In fact "the customs laws of most of the European countries contain some provision for the temporary free admission of raw or semi-manufactured products to be re-exported in an advanced state, or for the refund of import or excise duties paid on component material of exported products. In some countries the provision takes the form of general authorization, applicable to all products, while in others the articles entitled to temporary free admission or drawback are specified in the customs law."¹

The drawback system is highly developed and quite extensively used in the United States and Canada. In both countries the refund rate is extremely liberal, being in general 99 per cent of the import duty paid, allowing only one per cent

¹ *Foreign Tariff Systems*, p. 24.

for expenses of administration. The laws of the United States provide for drawbacks in the following cases :

(a) Merchandise upon which duties have been paid may remain in bonded warehouses at the expense and risk of the owners, and if exported directly therefrom within three years, shall be entitled to drawback.

(b) " Upon the exportation of articles manufactured or produced in the United States with the use of imported merchandise, the full amount of the duties paid upon the merchandise so used shall be refunded as drawback, less 1 per centum of such duties, except that such duties shall not be so refunded upon the exportation of flour or by-products produced from imported wheat unless an amount of wheat grown in the United States equal to not less than 30 per centum of the amount of such imported wheat has been mixed with such imported wheat. Where two or more products result from the manipulation of imported merchandise, the drawback shall be distributed to the several products in accordance with their relative values at the time of separation. When the articles exported are manufactured or produced in part from domestic materials, the imported merchandise shall so appear in the completed articles that the quantity or measure thereof may be ascertained."

(c) Exporters of meats which have been cured in the United States with imported salt, are allowed a refund equal to the duty on the salt in amounts not less than \$100.

(d) " On the exportation of flavoring extracts, medicinal or toilet preparations (including perfumery) hereafter manufactured or produced in the United States in part from domestic alcohol on which an internal revenue tax has been paid, there shall be allowed a drawback equal in amount to the tax found to have been paid on the alcohol so used."

(e) Drawback provisions shall apply also " to materials imported and used in the construction and equipment of

vessels built for foreign account and ownership, or for the government of any foreign country, notwithstanding that such vessels may not within the strict meaning of the term be articles exported."

(f) To trade with the Philippines are extended the same exemptions and drawback privileges as apply to exports to foreign countries.

The drawback system is designed to facilitate exportation and stimulate production for foreign markets by relieving domestic manufactures shipped abroad from the burden of taxes or customs duties on materials used. As a means to these ends, it is subject to certain limitations. It may well open the way to manipulation and fraud with a view to securing a drawback in excess of the duties or taxes to be refunded. The administrative difficulties are peculiarly great in the case of imported materials used in the production of commodities to be exported in a more advanced state. The period between importation and exportation must be limited, and it is important to maintain the identity of the goods, if possible. In the case of fabrics imported for certain purposes, such as bleaching, coloring, printing, or the like, identity may be proved by means of official marks or stamps. But some commodities, such as iron imported to be made into machines or grain to be milled, lose their identity in the process. In these cases the identity principle must be supplanted by the "equivalent principle"; *i.e.* by requiring the exportation of an estimated equivalent in the finished form. This principle is employed in the import certificate arrangements more or less common in Europe, under which the importer paying customs duties on materials is given a receipt which may be transferable and which entitles the holder to repayment of the customs duty upon exportation of the quantity of merchandise (in a more advanced state) represented by the receipt. But it is difficult either to trace the actual history of the goods on which

drawback is claimed or to determine the quantity of the imported material actually used in producing a given quantity of the manufacture presented for exportation.

Free Temporary Importation of Foreign Articles. — As distinguished from drawback provisions, modern tariff laws generally authorize the temporary admission without payment of duty of specified commodities normally dutiable. Such provisions are usually based upon statutory law, but sometimes they are matters of international agreement. They involve giving of bonds or other assurances of reexportation, and so their consideration is related to that of the bonded warehouse system. They commonly include, among other things, foreign articles which are to be reexported after being repaired or further advanced by manufacturing processes. These present administrative difficulties suggested by the foregoing discussion of the drawback system.

As illustrative of provision in American law for such temporary admission of foreign goods may be quoted Section 308 of the Tariff Act of 1922, stipulating "that the following articles, when not imported for sale or for sale on approval, may be admitted into the United States under such rules and regulations as the Secretary of the Treasury may prescribe, without the payment of duty under bond for their exportation within six months from the date of importation: (1) Machinery or other articles to be altered or repaired; (2) Models of women's wearing apparel imported by manufacturers for use solely as models in their establishments, and not for sale; (3) Molder's patterns for use in the manufacture of castings; (4) Samples solely for use in taking orders for merchandise; (5) Articles intended solely for experimental purposes, and, upon satisfactory proof to the Secretary that any such article has been destroyed because of its use for experimental purposes, such bond may be cancelled without the payment of duty; (6) Automobiles, motor cycles, bicycles, airplanes, airships,

balloons, motor boats, racing shells and similar vehicles and craft, teams and saddle horses, all of which are brought temporarily into the United States by nonresidents for touring purposes, or for the purposes of taking part in races or other specific contests; (7) locomotives, cars and coaches, and repair equipment belonging to railroads brought temporarily into the United States for the purpose of clearing obstructions, fighting fires, or making emergency repairs on lines, the property of railroads within the United States; and (8) containers for compressed gases which comply with the laws and regulations for the transportation of such containers in the United States." Subject to similar regulations and conditions the tariff law grants free admission to "animals brought into the United States temporarily for a period not exceeding six months, for the purpose of breeding, exhibition, or competition for prizes offered by any agricultural, polo, or racing association."

Typical of special legislation enacted from time to time in the interest of important fairs and expositions is provision of an act of May 22, 1913 "that all articles that shall be imported from foreign countries for the sole purpose of exhibition at the Panama California Exposition upon which there shall be a tariff or customs duty shall be admitted free of the payment of duty, customs fees, or charges under such regulations as the Secretary of the Treasury shall prescribe."

Free Reimportation of Unaltered Domestic Articles. — The commercial policy of modern industrial nations generally makes some provision for the free reimportation of certain dutiable domestic goods which have been exported and later returned in an unaltered form. Especially is such provision common in respect to containers and packing materials used for the exportation of domestic products. Sometimes such exemption is complete and sometimes containers are subject to duty upon the original importation but not subsequently.

The American tariff law states that "articles the growth, produce, or manufacture of the United States, when returned after having been exported, without having been advanced in value or improved in condition by any process of manufacture, or other means" shall be admitted free of duty. In addition to this broad stipulation, it makes similar concessions in favor of certain specially enumerated classes of articles reimported, among which are :

(a) *Empty Packages* comprising "steel boxes, casks, barrels, carboys, bags, and other containers or coverings of American manufactures exported filled with American products, or exported empty and returned filled with foreign products."

(b) *Articles Exported for Repairs* "may be returned upon payment of a duty upon the value of the repairs at the rate at which the article itself would be subject if imported."

(c) *Personal Effects of Returning Travelers*. Articles of this kind are, under certain limitations, almost universally admitted free of duty. The American tariff act provides that "in case of residents of the United States returning from abroad all wearing apparel, personal and household effects taken by them out of the United States to foreign countries shall be admitted free of duty, without regard to their value, upon their identity being established under appropriate rules and regulations to be prescribed by the Secretary of the Treasury," but that no more than one hundred dollars in value of articles acquired abroad by such residents of the United States shall be admitted free of duty upon their return.

(d) *Articles for Exhibition Purposes*. An American law of May 18, 1896, enacts "that whenever any article or articles or livestock shall be sent out of the United States for temporary use or exhibition at any public exposition, fair, or conference held in a foreign country, such articles shall be entitled to be returned to the United States, under such regulations as may be prescribed by the Secretary of the Treasury, without

the payment of customs duty, whether they shall be of domestic or of foreign production. Provided that the articles of foreign production have once paid duty in the United States, and no drawback has been allowed thereon; and if any domestic articles are subject to internal revenue tax such tax shall be proved to have been paid before exportation and not refunded." Such exemptions are common in the commercial regulations of modern nations. In order to secure the benefit of such exemption, articles must be properly registered before exportation and must be reimported within a certain period. The purpose of such legislation is to encourage exporters in their efforts to advertise their goods in foreign markets.

Miscellaneous "Free List" Articles.—Many modern tariff laws contain a distinct list of articles admitted free of duty, although outside the Anglo-Saxon countries the tendency is otherwise: that is, to group articles of a given class together whether they are free or dutiable. Some of these articles are sufficiently characteristic to deserve special mention. In manufacturing countries, raw materials and, in certain countries, common foodstuffs are frequently not subject to duty. Also provision is often made for exceptional free admission of articles regularly dutiable. Thus there is free entry into the United States of any pure-bred registered animal of recognized breed imported specially for breeding purposes and free entry of teams of animals, harness and tackle and wagons and other vehicles actually owned by persons emigrating from foreign countries to the United States with their families and actually in use for the purpose of such emigration. Likewise such articles as books, maps, music, engravings, photographs, etchings, lithographic prints, charts, regalia and gems, statuary, specimens or casts of sculpture, works of art, etc., may be imported free of duty "for the use or by order of any society or institution incorporated or established solely for religious, philosophical, educational, scientific, or

literary purposes, or for the encouragement of the fine arts, or for the use or by order of any college, academy, school or seminary of learning in the United States, or any state or public library, and not for sale." In the same category belong works of art, the production of American artists residing temporarily abroad, which may be imported without duty when presented to any public institution; works of art (except rugs and carpets) and objects of art of an ornamental character or educational value which shall have been produced more than one hundred years prior to the date of importation; and original paintings, drawings, and sketches. In the "free list" are also found the household effects of persons or families from foreign countries when used by them not less than one year; foreign newspapers, periodicals, and public documents issued by foreign governments, as well as books, maps, music, engravings, etchings, bound or unbound, and charts which have been printed more than twenty years at the time of importation; professional books, implements, instruments, and tools of trade, occupation, or employment in the actual possession, at the time, of persons emigrating to the United States. Finally the "free list" includes "wearing apparel, articles of personal adornment, toilet articles and similar personal effects of persons arriving in the United States; but this exception shall only include such articles as were actually owned by them and in their possession abroad at the time of or prior to their departure from a foreign country, and as are necessary and appropriate for the wear and use of such persons and are intended for such wear and use, and shall not be held to apply to merchandise or articles intended for other persons or for sale."

Internal Taxes on Imported Merchandise. — When articles subject to internal taxes are imported, such taxes are commonly levied on them in addition to the regular import duties. These excises, however, are not usually included in the general

tariff act, but must be paid, as far as possible, in the same manner as similar taxes levied on domestic articles. In the United States the excise on tobacco is paid in the form of a stamp which must also be affixed to the imported article before the latter may enter the domestic market. Products shipped in either direction between the United States and either the Philippines, Porto Rico, or the Virgin Islands pay the internal revenue taxes of the country or island of destination only.

The levying of internal taxes on foreign imported merchandise is, to some extent, regulated by international agreement. In this matter one of two methods generally prevails. Either nations mutually agree that they will exact of each other no other or higher taxes, charges, or requisitions than are levied on the property of their own citizens or subjects, or they stipulate that they will exact of each other no higher duties than are levied on the property of citizens or subjects of any third nation. The former plan usually characterizes the commercial relations of modern industrial nations, while the latter is more often found in commercial regulations between advanced and backward countries. Such agreements may have little significance if the parties to them remain free to fix import duties, for equal internal taxes combined with high import duties discriminate as effectively against foreign goods as do discriminatory internal taxes combined with moderate import duties.

Sometimes states agree to limit the number of articles that may be subjected to an excise tax so far as commercial relations with certain other countries are concerned. Such a limitation was exacted by Austria-Hungary, for example, in her commercial treaties with the Balkan States in pre-war days. While states are supposed to have a free hand in regard to taxing articles whose manufacture or sale they monopolize, there were also certain limitations as to the number of such

articles in the commercial treaties between Austria-Hungary and the Balkan States. Treaties may expressly exempt from all forms of internal duties products imported for warehousing or transit, as in the reciprocal agreements made by Bulgaria with Italy and with Roumania in 1906 and 1907. The convention between Austria-Hungary and Serbia in force at the outbreak of the war, stipulated that no internal taxes were to be levied on imported products of either country which were not produced in the other, except a specified Serbian trocharina. Turkey, on the other hand, by imposing high internal taxes on certain articles not produced in that country, has virtually increased her import tariff.

Internal Taxes on Domestic Products Destined for Exportation. — An internal tax on a domestic article which is exported operates in the same way as an export duty. It makes the article more expensive, and therefore more difficult to sell, in the competitive markets of the world. When sold abroad, the tax on such a commodity is usually paid by the domestic producer or the exporter, except when the exporting country possesses a world monopoly.

As the general policy of modern states is not to hinder but to facilitate foreign sales, domestic products destined for exportation are usually exempted from the payment of internal revenue taxes. Such exemptions involve many administrative difficulties and are only feasible when goods are produced in large quantities and where the industrial organization is fairly well centralized, as in the manufacture of tobacco, malt and distilled liquors, sugar, etc. The Japanese internal tax on cloth is not collected on cloth exported, but the amount of this tax is included in arriving at the "foreign value" as a basis for assessing the United States import duty on Japanese cloth coming to this country. As regards the United States, the customs regulations prescribe that tobacco, for example, intended for immediate exportation may be withdrawn from

bonded warehouses or manufactories without paying internal revenue duties "under such regulations, and after making such entries and executing and filing with the collector of the district from which the removal is to be made, such bonds and bills of lading and giving such other additional security as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury."

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SUGGESTIVE TOPICS AND QUESTIONS

1. To what extent, for what purposes, and with what effects were bounties granted in the American colonies? (JOHNSON, *Domestic and Foreign Commerce*, Vol. I, pp. 60-62.) After the Revolutionary War? (*Ibid.*, Vol. I, pp. 141 *et seq.*) What is the one significant instance of federal bounty-granting? Compare its effects with those of protective

duties. (TAUSSIG, *Some Aspects*, 53-56.) Can you cite any case of federal export bounty in our history? (*Cyclopedia of American Government*, Vol. I, p. 167.)

2. What opinions regarding bounties were held by Alexander Hamilton? (His *Report on Manufactures*.) Adam Smith? (*Wealth of Nations*, Bk. IV, Ch. 5.) Ricardo? (*Principles of Political Economy*, Ch. 22.) J. S. Mill? (*Principles of Political Economy*, Bk. V, Ch. 10.) Marshall? (*Principles of Economics*, Bk. V, Ch. 7.) Sidgwick? (*Method and Scope*, p. 18.)

3. Does a drawback operate advantageously to home producers? How would allowances of drawback in the United States on imported salt, for instance, affect the interests of domestic salt producers?

4. What are some of the abuses in the application of the "equivalent principle"? GRUNZEL, 204-207, 216-220.

5. Cite notable examples of (a) private export bounties; (b) bounties through freight rate concessions. GRUNZEL, 220-239.

6. Summarize and criticize Grunzel's conclusions as to the effect of export bounties. *Economic Protectionism*, 318-326.

7. Note in recent issues of *Foreign Tariff Notes* and *Commerce Reports* (Tariffs and Trade Regulations) changes in different countries as to bounties, drawbacks, temporary admission, and exemptions from duties; seek to discover the cause and significance of changes noted.

CHAPTER X

ADMINISTRATIVE INSTITUTIONS

General Methods of Tariff Administration. — For the purpose of guarding general interests, especially the financial interests of the government and the protected interests of the producers, various methods of tariff administration have been adopted in different countries to carry out the purposes of the law regarding the levying of correct duties, the settlement of disputes regarding customs matters, and the like. In the United States, tariff administration rests primarily with the Treasury Department.

Immediately under an Assistant Secretary of the Treasury is the Division of Customs in which center all matters pertaining to the supervision and administration of the customs and by which are prepared instructions and regulations relating to the collection of duties under the laws concerning imports. As in other countries, the law provides that imported goods may be entered and delivered only at specified places. There are forty-nine Customs Districts each containing several ports of entry. Each district is under a Collector of Customs (often informally called Collector of the Port) whose headquarters is at the principal port of entry in the district. He is aided by many deputy collectors, at least one of whom is stationed at each subport of entry. At some of the more important ports are provided a Surveyor to superintend the unloading, weighing, measuring, and gauging of imported merchandise, and a Comptroller (formerly called Naval Officer) who serves as auditor and reports direct to the Treas-

ury Department. At all ports of entry, imports are inspected by government appraisers (sometimes colloquially called "local appraisers" to distinguish them from General Appraisers).

All imported goods exceeding one hundred dollars in value must be accompanied by an invoice sworn to before an American consul at the place of shipment.¹ These invoices are usually made out in triplicate, one copy being kept on file in the consulate, one being sent to the Collector of the port of entry in the United States, and the third being given to the exporter for transmittal to the importer or consignee. The invoice, together with any information obtained from other sources such as trade reports, government statistics, and American treasury experts stationed in foreign countries, furnishes the basis of valuation for purposes of levying the duty. The value of all goods imported into the United States is determined, in the first place, by a local appraiser. In case of dissatisfaction either on the part of the Collector of Customs or of the importer, appeal may be made to a General Appraiser and finally to a Board of General Appraisers whose decision shall be final and conclusive as to the dutiable value of such merchandise against all parties interested therein. As regards the rate and amount of duties, the decision rests, in the first instance, with the Collector of Customs. In case of dissatisfaction on the part of the importer or consignee with his conclusion, the facts may be referred to a Board of General Appraisers. Such a board is constituted as follows: The President of the United States appoints a board of nine members which is in turn divided into three boards of three members each, to hear appeals for review of appraisement of merchandise and protests against the decisions of the Collector. Headquarters is at New York where most of their work is

¹ As to methods of consuls in arriving at true valuation, see JONES, *Consular Service*, 79-80; as to contents of invoice, see ROSENTHAL, *Technical Procedure in Importing and Exporting*, Ch. 9.

done; but hearings are also held at other ports at stated intervals or as required. The General Appraisers are judicial officers with no administrative functions. While the Collector, as an officer of the Treasury, decides in cases of doubt in the interest of the government, the General Appraisers regard equally government and private rights. From their decision, appeal may be made either by the government or by the importer to the Court of Customs Appeals for a review of the questions of fact or law involved in such decision. This conclusion is final except for review by the Supreme Court of the United States in cases involving the construction of the Constitution of the United States or of a treaty and in cases which in the judgment of the Attorney General are of such importance as to require review by this highest court.

Meaning and Advantages of Bonded Warehouses. — According to the customs laws of the United States, merchandise on reaching a port of entry may be entered for immediate consumption, in which case it is appraised, classified, and delivered to the importer on payment of the estimated duty, or it may be entered in bond for appraisement and storage in a public or private bonded warehouse. There the articles may be stored under bond, free of taxes or duties except incidental storage dues, while waiting either to be entered for domestic consumption upon the payment of the regular internal revenue taxes or import duties, or to be forwarded to foreign countries, without the payment of taxes or duties. The warehousing system, which has generally been adopted by leading commercial nations, is a credit system whereby the government extends the time for the payment of duties or taxes upon goods, in the meanwhile retaining possession of the goods as security. Such a system has an important economic advantage to manufacturers or importers, since immediate payment of duties or taxes would often involve large and unremunerative investments of capital. It is also a

plan which offers great convenience since the importer or manufacturer has access to the goods and may dispose of them at any time by paying the duties, excises, and storage dues if sold at home, or simply the storage dues if sold abroad. There are two general classes of bonded warehouses, those for imported goods and those for domestic products. The articles most prominently identified with the latter class are distilled spirits and tobacco. The bonding of commodities under the internal revenue system is, however, only indirectly related to foreign commerce, while the bonding of imports is primarily to facilitate reexport trade.

United States Bonded Warehouses for Imported Goods. — The warehousing system was adopted in the United States in 1846 to replace the drastic cash payment law of 1842 which was designed to correct the evils of an earlier credit system. This initial warehouse law was modeled somewhat upon the English act of 1833, which was apparently suggested by Dutch practice. It has been modified from time to time by subsequent legislation. The Customs Regulations contain the following classification of bonded warehouses:

Class 1. Government bonded warehouses which are owned or leased by the government and exist in those ports where there are no private bonded warehouses or where they are inadequate.

Class 2. Importers' bonded warehouses which contain exclusively the goods of large importers. These are private bonded warehouses and the owner must pay for the services of the customs officials in charge of them, as in the case of all private bonded warehouses.

Class 3. Private bonded warehouses used for the general storage of imported goods. Under government supervision these do a large part of the warehousing business.

Class 4. Private bonded warehouses consisting of yards or sheds for the storage of wood, coal, molasses, sugar in hogs-

heads or in tierces, railroad, pig and bar iron, and other heavy articles.

Class 5. Private bonded warehouses consisting of bins or parts of buildings or of elevators to be used for the storage of grain.

Class 6. Private bonded warehouses for the manufacture for exportation, of articles made in whole or in part of imported materials; or of materials subject to internal revenue taxes; also for the storage and cleaning of imported rice intended for exportation.

Class 7. Private bonded warehouses for smelting and refining imported ores and crude materials intended to be exported in a refined but unmanufactured state.

Finally, in this connection mention should be made of the bonded railroad cars which might be called warehouses on wheels. While goods are in transit such cars serve the purpose of bonded warehouses.

General Regulations Regarding United States Bonded Warehouses for Imported Goods. — The regulations regarding the reception and custody of goods are substantially identical in all classes of bonded storage warehouses in the United States. Vessels bringing such goods must submit to the same formalities as do those bringing dutiable articles for domestic consumption. The goods themselves must be valued, sampled, weighed, and tested before removal from the dock. Some articles such as perishables and explosives are not entitled to storage. Those accepted are under constant customs control and supervision from the time they enter port until they are reshipped. They must be arranged according to prescribed regulations to facilitate inspection by Government agents; permits must be secured for reception and delivery; and strict accounts kept of warehouse transactions. The importer or owner of the stored goods may withdraw them upon payment of all charges at any time during the credit

period of three years provided by law. Goods not withdrawn within that time are sold by the government, the proceeds of the sale being used to defray the accruing charges, and the balance, if any, being returned to the owner or importer of the goods. Should the proceeds be insufficient to pay the charges, the balance is collected upon the warehouse bond, by suit if necessary. The owner of the goods is required to give bond in double the amount of the estimated duty on them.

Into bonded manufacturing warehouses foreign materials may enter to be wrought into manufactures ready for consumption. With minor exceptions, production therein must be for export only. The proprietor is required to file a detailed statement as to the articles he intends to manufacture and the ingredients used; and he must give bond in double the value of the goods to be produced. The materials and operations are constantly under customs supervision; and the restrictions and penalties are such as only highly standardized industries (such as sugar refining and flour milling, in which a constant ratio exists between raw material and finished product) are likely to find it practicable to meet.

These paragraphs suggest some of the limitations of the American warehouse system as an institution to facilitate the reëxport of foreign goods either in their imported state or after combination and fabrication with domestic materials. Various modifications have been proposed with a view to liberalizing the system without sacrificing security. The most important recent legislation along this line is the clause in the Tariff Act of 1922 permitting the sorting, mixing, and re-packing of goods in storage. Meanwhile a movement for the inauguration of free ports (free zones, or free districts) has won much support.

Free Ports. — The term "free port" is often used quite loosely; but in its older and stricter sense it signifies a maritime commercial center whose harbor is open to the com-

merce of the world free from customs supervision or from the payment of customs duties. In these ports ships may load or unload, manufacturing may be carried on or goods may be bought or sold without interference from the fiscal authorities except in the way of regulations to enforce payment for the rendering of specific services such as wharfage, storage, and the carrying out of police and sanitary measures. Free ports arose in the beginning of modern history when states were small and governments decentralized, in order to facilitate the increasing transit trade which resulted from the growth of commerce after the Crusades and the great maritime discoveries. Italy was the first country to adopt this institution, most of her important commercial cities becoming free ports during the sixteenth and early part of the seventeenth centuries. All her free ports were, however, abolished in 1865, soon after Italian unity had been established. In France Colbert accepted the principle of free ports and applied it to Marseilles in 1669. Other French cities were made free ports during the eighteenth century, but all were abolished at the time of the Revolution, and although temporarily restored in 1814 they did not long survive. In Austria and Hungary, Trieste and Fiume were declared free ports in 1719. The free port of the former was temporarily abolished during French domination, but was restored in 1806. In 1891 both cities became incorporated in the Austro-Hungarian tariff union, but without abandoning their status as free ports. In Germany, Altona was the first free port (1664). The Hanseatic cities of Lübeck, Bremen, and Hamburg were politically independent for centuries and were practically free ports. After 1834 there was earnest agitation for their incorporation into the German Zollverein. Lübeck joined the tariff union of the North German Confederation in 1867, and Hamburg and Bremen were incorporated into the tariff union of the German Empire in 1888, but they retained free zones even after such

incorporation. Other free ports have at different times been temporarily established in Belgium, Roumania, and Russia. The only English free port in Europe is Gibraltar. The institution has, however, been employed in several European colonies or settlements, the most noteworthy being Aden, Singapore, and Hong Kong.

Free Districts, or Free Zones. — It appears from the foregoing that free ports have been generally abolished in European countries, since they hinder the growth of nationality. They have been replaced by the bonded warehouse and the free district, or free zone. On this point, confusion is likely to arise because, in current discussion, the terms "free port" and "free zone" are commonly used interchangeably. Perhaps no hard-and-fast line can be drawn between them. But the latter is more specifically defined as "an isolated, enclosed, and policed area, in or adjacent to a port of entry, without resident population, furnished with the necessary facilities for lading and unlading, for supplying fuel and ship's stores, for storing goods and for reshipping them by land and water; an area within which goods may be landed, stored, mixed, blended, repacked, manufactured, and reshipped without payment of duties and without the intervention of customs officials. It is subject equally with adjacent regions to all the laws relating to public health, vessel inspection, postal service, labor conditions, immigration, and indeed everything except the customs."¹ It differs from the earlier free port (of which it is historically an outgrowth) principally by being much more restricted both as to area and as to scope. Districts or zones of this sort are usually in mind when the European free ports of to-day are mentioned or when a free port policy for the United States is proposed.

In most of the European countries such institutions have been established where free ports previously existed, and the

¹ U. S. Tariff Commission, *Report on Free Zones*, p. 9.

free-zone idea has continued to spread, not only in that continent, but throughout the world. By 1904, there were nine duty-free areas in Germany, two in Austria-Hungary, one in Denmark, and one in Roumania. Before the outbreak of the World War, steps had been taken toward the setting up of similar areas in other countries; and trade conditions during and after the war have in some cases hastened work on such projects. Among the more important cities having such free districts are Hamburg, Bremen, Copenhagen, and Cadiz; but the movement has also gained headway in France, Portugal, Switzerland, Sweden, Finland, Latvia, and other European nations as well as overseas. These districts vary in size from less than an acre to two or three thousand acres. They are generally supplemented by the bonded warehousing system, which is practically the only plan in vogue in England and in the United States. In view of her recent changes in tariff policy, however, the advisability of free zones is receiving serious consideration in Britain.

Proposed American Free Zones. — For some years the advisability of a system of free districts in this country has been more or less discussed. One of the earlier suggestions came from Leslie M. Shaw, former Secretary of the Treasury, who advocated what he termed "bonded zones for export." His scheme was as follows:

"Suppose instead of a bonded factory, we bond a well-defined section of land containing, if you please, several thousand acres. Within this bonded territory all kinds of factories could be entered without the payment of duty. This port should, of course, contain no dwellings. I would allow free coal and every other element of manufacture excepting labor to be entered free. In other words this free port should be a great consumer of American labor, the product of which, under the most encouraging conditions, should be for export and for export only. If it was removed from the port for purposes of domestic consumption, it should pay the same duty as if imported from abroad. I do not see wherein the American people could be harmed by such a policy, and it

would result in furnishing employment to those who choose to live beneath our flag, consume our products, and work at the American scale of wages. All New England would be benefited by such a port somewhere on the North Atlantic coast. A similar port should be established in the vicinity of Norfolk and another on the Gulf. It will take time to develop the thought, but it is in absolute harmony with the present bonded warehouse, bonded factory, and drawback policy, and we have the example in the free ports of Germany."

Nothing definite came of this particular suggestion. But events of the past few years have vitalized the question of free zones in this country. In these years have come, (1) unprecedented interest in the promotion of export trade; (2) banking facilities for financing foreign commerce; (3) organization and expansion of trading corporations; (4) a great merchant fleet; (5) the thrill of war-time preëminence in international trade; (6) a partial recovery, under war, of transshipment and reëxport business; (7) a growing conviction that a fair share in this business of redistribution is important for the well-balanced industrial and commercial progress of the nation and that (8) such business tends to concentrate in ports having free areas.

In March, 1918, identical bills were introduced into both houses of Congress providing for the establishment, operation, and maintenance of free zones in the United States. Their administration was to be placed under the Secretary of Commerce who was authorized to grant, under stipulated conditions, to public or private corporations the privilege of establishing such zones in or adjacent to ports of entry for periods not exceeding fifty years and who was directed to prescribe rules and regulations concerning them. The proposed legislation was merely permissive, leaving the initiative and risk to the state or political subdivision thereof and thus avoiding ill-advised raids on the federal treasury; and not more than one zone was to be set up at any one port. The measure was carefully drawn in the light of European experi-

ence and of American conditions; with slight modifications, it had the approval of the Tariff Commission; it seemed to meet with a favorable response in commercial centers where hearings were held. Nevertheless, neither this bill nor any similar measure subsequently introduced has yet come to enactment.

Advantages of an American Free-zone System. — The central argument for free zones is that they will stimulate the growth of consignment markets in our ports and enable our nation to secure a prominent place in the transshipment business of the world, which amounts to billions of dollars annually. These results are expected to follow because (1) the entry and clearance of vessels will be simplified; (2) goods, not for domestic consumption, will escape customs formalities; (3) much time and expense will thus be saved; (4) a maximum of freedom will be permitted in the handling, assorting, grading, cleaning, and other manipulation of foreign products in the zone area, in negotiating their sale, and in their transfer to the ultimate market; (5) free zone warehouse certificates may be made peculiarly acceptable as collateral for advances; and (6) as a result, ships and consignments will be attracted to our shores which would, under present conditions, seek foreign trade centers. They will come, it is urged, because, in such a zone, goods may be expected to find purchasers and ships expect to find return cargo for whatever port they sail. The inbound and outbound traffic of our ports will be more nearly equalized; and, in turn, (1) freight costs may be reduced because fewer ships must return to Europe in ballast and (2) a larger proportion of imports from South America and other overseas sources will come directly to the United States and not via Europe, because transshipment cargoes will be available here for outgoing voyages to the overseas markets. All these factors, it is argued, will react favorably upon American commerce in general, foreign and domes-

tic. The direct stimulus to manufacturing is expected to come slowly, and to remain a secondary but not necessarily an insignificant outcome of zone policy.

Critics of free-zone proposals for the United States point out, among other things, that the American system of manufacture in bond and the American drawback system are now more comprehensive and liberal than those in Europe; that European provisions for "*admission temporaire*" (temporary admission) and "*veredlungs-verkehr*" (improvement trade) represent a different development to serve much the same end as these American systems, but are more limited in application; and that manufacturing for export in American free zones would be practical only in a few lines, because the establishment of small branch factories there would destroy our chief competitive advantage: namely, large-scale standardized production.

Frontier Traffic in the Narrower Sense. — National boundary lines have often been established more with reference to political considerations than to the economic interests of those living on the frontier. Sometimes such lines have divided individual properties so that the same person owned land in two different States. When customs administration was ineffective and smuggling was more the rule than the exception, the inconvenience of artificial boundaries was easily evaded, but such conditions became incompatible with the development of national industrial life. Special privileges, however, have been granted in many instances to those living on the frontier, such concessions generally securing free transit over the border and exemption from customs duties on certain articles within a definitely prescribed zone on both sides of the boundary. Such regulations are found in many general tariff laws and in commercial treaties between several of the countries of Western Europe. These provisions are spoken of as regulating "frontier traffic in the narrower sense" in contra-

distinction to "frontier traffic in the wider sense," or border concessions which have been extended to include an entire country.¹

Mexican Free Zone. — The so-called Mexican Free Zone was a strip of land about twelve and one half miles wide, extending along the entire northern boundary of Mexico. It was not strictly a free zone, since goods entering it paid eleven and one half per cent of the regular tariff, the balance being paid if they were conveyed to any other part of Mexico. It was originally established along a part of the northern boundary in 1858 and extended in 1885 across the entire frontier of the North in order to discourage the emigration of Mexicans to the United States. Formerly there were much higher federal and state taxes in Mexico than in the United States, the result being that the cost of living in the Mexican towns along the border was more than in the neighboring Texan towns. At first all foreign goods entering the Zone were exempted from all duties, excepting State and Municipal taxes, but when the United States raised its customs duties, the rate payable on entering the Free Zone was gradually raised to eleven and one half per cent of the regular Mexican tariff rates.

The Mexican government in 1891 decided that goods manufactured in the Zone should pay duty when imported into the interior. This provision practically put an end to manufacturing in the Free Zone since the advantage of low cost of raw materials was balanced by the two high tariff walls by which the Zone was hemmed in. Consequently the Free Zone was abolished with the institution of the Mexican tariff of 1905. Later efforts of frontier towns have failed to effect its restoration.

Treaty Ports. — Treaty ports are ports open to commerce by virtue of international agreements. Such ports per-

¹ Concerning special provisions in European countries for frontier traffic, see GREGORY, *Tariffs*, 5, 422-424.

mitting trade between the Occident and certain Oriental centers in China and Japan have been secured through numerous treaties since the middle of the nineteenth century. The first treaty ports in China were by virtue of the Nanking treaty of 1842 between the Celestial Empire and Great Britain. These concessions were also granted to other nations, article III of the treaty of 1844, between the United States and China, stipulating that "the citizens of the United States are permitted to frequent the five ports of Kwangchow, Amoy, Fuchow, Ningpo and Shanghai, and to reside with their families and trade there, and to proceed at pleasure with their vessels and merchandise to and from any foreign port and either of the said five ports to any other one of them." At present Chinese treaty ports number over forty. Japan was also opened to foreign commerce through treaty ports, her commercial treaty of 1854 with the United States paving the way by opening the ports of Simoda and Hakodadi to American commerce. But since 1899, Japan has been recognized as on an equality with the other civilized powers, and her entire country has been thrown open to foreign countries.

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SUGGESTIVE TOPICS AND QUESTIONS

1. Nature and working of credit systems in regard to imported goods before the adoption of the American bonded warehouse system. (Goss, 26-51; *Monthly Summary of Commerce and Finance*, October, 1903.)
2. What stipulations are found in the Treaty of Versailles concerning free zones in German ports? Art. 328 of the Treaty.
3. To what extent is the bonded warehouse system actually utilized for imports? *Monthly Summary of Foreign Commerce* for last December, and also the current number.
4. Prepare report on the organization and operation of the Free Port of Hamburg (CLAPP; MACELWEE, 291-301); or the Copenhagen Free Port (*Tariff Commission Report on Free Zones*, 77-85).
5. What changes in laws concerning transportation in bond and warehousing of merchandise were recommended by the Tariff Commission? To what extent have these been enacted into law? *Report upon Customs Administrative Laws*, 20-21, 131-148; Tariff Act of 1922.
6. Make a map showing the customs districts as now arranged. By what authority are they constituted? *Report upon Customs Admin. Laws*, 34-44.
7. How would bonded warehouses and warehouse business probably be affected by the establishment of free zones? MACELWEE, 282-284; FRIEDMAN, *Reconstruction*, 256-257, 264; CLAPP, *Port of Hamburg*; *Tariff Commission Report on Free Zones*, 71, 83, and *passim*.

CHAPTER XI

COMMERCIAL TREATIES: THEIR NATURE, FORM, AND CONTENTS

Definitions. — International compacts are recorded in a variety of forms and under a great diversity of titles, according to the circumstances of the case or the purpose in view. The form adopted in a given case is determined partly by custom and partly by convenience. The terms "treaty" and "convention" are used more or less synonymously and are applied to the more formal compacts between two or more nations, concluded by their authorized agents. Less formal engagements are often designated as agreements, *modus vivendi*, etc. These are common in dealing with subordinate or special subjects affecting commercial relations and not infrequently embody determinations of the highest importance. They are sometimes effected by a mere exchange of notes between the secretary of state (or foreign minister) of the country in which the negotiation is conducted and the ambassador of the other country. A *modus vivendi* usually provides for the temporary extension of treaty provisions, in whole or in part, after the treaty itself has been abrogated and is usually intended to be replaced later by a more detailed or more permanent compact.¹

A commercial treaty is an international agreement relative to trade. Such a treaty may be very general in character, as was the case in most of the early commercial treaties of the United States, which were usually designated as treaties of

¹ See U. S. Tariff Commission *Handbook of Commercial Treaties*, especially pp. 859-862.

“amity, commerce, and navigation.” Sometimes, on the other hand, a commercial treaty is more special in character and deals only with one subject from which it derives its particular name. Thus we speak of consular treaties, trademark treaties or conventions, and the like.

Commercial treaties are in most cases *bilateral*, that is, they are negotiated between single nations. While peculiar problems, conditions, and relations make this type of treaty essential in dealing with many matters, it is increasingly recognized that nations have many interests in common which can be safeguarded more effectually by agreements to which all or many countries are signatory. Consequently, more and more *multilateral* treaties and conventions are being concluded. They deal with such matters as postal service, cable and radio telegraphs, protection of copyrights, trademarks, patents, and other forms of industrial property.

Development of Commercial Treaties. — Commercial treaties are of very ancient origin; one governing the commercial relations between Rome and Carthage dates back to the year 509 B.C. But they did not play an important rôle in commercial politics until within comparatively recent times. In the Middle Ages it was necessary to secure by means of treaties the right to trade in foreign countries, just as in the last century similar privileges were obtained by treaty in Japan and China. Beginning with the latter part of the twelfth century numerous commercial treaties governed the commercial relations of the Italian city republics with each other and with states bordering on the Mediterranean. During succeeding centuries, with the development of trade and the growth of nationality, commercial treaties became more frequent among the Western European countries. After the fall of Constantinople into the hands of the Turks in 1453 the commercial relations between the East and the West were regulated by the so-called Turkish “capitulations” or grants

made by sultans to Christian nations, conferring on their subjects trading privileges in the Ottoman dominions. These concessions were usually one-sided arrangements and lacked the element of reciprocity which is characteristic of modern commercial treaties. During the seventeenth century colonial and navigation policies and the wars of Louis XIV provoked animosities and retaliatory tariffs. The beginning and close of the eighteenth century, however, were marked by the enactment of commercial treaties of a distinctly modern type. In the Methuen treaty of 1703 between England and Portugal the latter removed the prohibitions against the importation of English woollens in return for preferential treatment of Portuguese wines imported into England. In the Eden treaty of 1786 between France and England important modifications in the way of lower duties were made in the existing tariff rates of both countries. The United States paved the way for better international commercial relations by a series of commercial treaties with European nations immediately succeeding the Declaration of Independence and somewhat later by a series of similar commercial treaties with the South American countries after the latter had declared their independence.

European Commercial Treaties of the Free-trade Era. — The disturbed political conditions caused by the French Revolution and the Napoleonic wars hindered the enactment of commercial treaties during the early part of the nineteenth century. The favoring factors were the abolition of internal customs barriers, the growth of nationality, and the Industrial Revolution with its attendant growth of foreign trade. The movement toward better international commercial relations found its best expression in the Cobden treaty of 1860 between England and France, wherein customs duties were reciprocally lowered and both countries agreed to treat each other as well as either of them did other nations. Similar treaties were

made about this time between most of the countries of Western Europe, and together they are usually spoken of as "the treaties of the free-trade era" or as "the system of Western European commercial treaties."

European Commercial Treaties of the Protection Era. — The reaction against free trade which developed on the European continent after the middle of the 70's reflected itself in the treaties of this period. In the beginning of the 90's France, after raising her tariff rates in nearly all lines, adopted the system, already in vogue in Spain, of a maximum and minimum tariff and negotiated new treaties on this basis. This plan was followed by Russia and also by some of the smaller European states. Germany about the same time (1891-1894) negotiated a series of conventions with Austria-Hungary, Switzerland, Belgium, Italy, and other states, wherein reduced import duties on certain articles were stipulated. These arrangements, which were to remain in force until the end of 1903, are generally referred to as the "system of middle European commercial treaties." In 1902 Germany passed a new tariff law which differed, as has been already stated, from her former tariff law in being more protective and in establishing a minimum instead of a maximum duty for grain. New treaties were negotiated on the basis of this tariff law, in 1904-1905, with Belgium, Russia, Roumania, Switzerland, Servia, Italy, Austria-Hungary, and Bulgaria, and later, with Greece, Sweden, and Portugal. The European commercial treaties during the past forty years are usually characterized as "treaties of the protection era."

What States May Negotiate Commercial Treaties? — Generally only sovereign states may make treaties, but this principle is not so strictly adhered to in the case of commercial treaties. Egypt, for example, was granted the right by the sultan in 1873 of negotiating commercial treaties with foreign powers and exercised this right in several instances. The

Balkan States also before their independence obtained or maintained this right. While colonies may not negotiate treaties by themselves, there has been inserted since 1886 in most British commercial and other treaties an article whereby any of the English self-governing colonies or India may become a party to the treaties of the motherland at their own option any time within two years after a treaty has been negotiated, and the Dominion of Canada has even been permitted to negotiate treaties without the intervention of Great Britain, as in the case of the proposed reciprocity agreement with the United States in 1911. Sometimes independent states waive their right of making commercial treaties. The independent principality of Liechtenstein surrendered this right when it was incorporated into the tariff union of Austria-Hungary, and this was the case with the independent duchy of Luxemburg when it joined the German Zollverein and when it recently effected a customs union with Belgium.

Who May Negotiate Commercial Treaties? — The right of negotiating a treaty generally rests conditionally with the king in a monarchy and with the president in a republic, but this right has been largely restricted in recent times, especially as regards the negotiating of commercial treaties. In the United States the Constitution prescribes (Art. II, Sec. 2, par. 2) that the President "shall have power by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur."¹ As the Constitution also stipulates (Art. I, Sec. 7, par. 1) that "all bills for raising revenue shall originate in the House of Representatives," it is a mooted question whether a treaty involving a change of revenue laws, as is the case in many commercial treaties, must not have the sanction of both houses of Congress. The question has never been judicially passed upon by the Supreme Court.

¹ Commercial agreements or other less formal arrangements are frequently negotiated, since these can be made effective without Senate ratification by two-thirds majority.

Duration of Commercial Treaties. — Treaties of peace, in the absence of any provision for their abrogation or revision, are perpetual; they may be altered only by mutual consent or by war. The duration of a treaty of commerce, on the other hand, is usually fixed for a term of years or to a certain date, although there is often a provision requiring notification before the treaty is terminated and, in the absence of such notification by either of the contracting parties, is automatically renewed for an equal (or shorter) term. Thus the commercial treaty of 1828 between the United States and Prussia states that "the present treaty shall continue in force for twelve years, counting from the day of the exchange of the ratifications; and if, twelve months before the expiration of that period, neither of the high contracting parties shall have announced, by an official notification to the other, its intention to arrest the operation of said treaty, it shall remain binding for one year beyond that time, and so on until the expiration of the twelve months, which will follow a similar notification, whatever the time at which it may take place." This treaty remained in force until a state of war was declared in 1917, no formal notification having previously been given by either government. It was formerly common in treaties of commerce with Eastern nations to stipulate that they should be revised from time to time. In the treaty of 1858 between the United States and Japan, for example, it was provided that after a certain period upon the request of either party the treaty "shall be subject to revision by commissioners appointed on both sides for this purpose, who shall be empowered to decide on, and insert therein, such amendments as experience shall prove to be desirable."

During very recent years the economic and political unsettlement throughout the world, the revision of national boundaries and groupings, the very general and frequent recasting of tariff laws, and the tensivity of international relations,

have made for caution as to long-time commitments in the new scheme of commercial treaties. The *modus vivendi* has played an extraordinary rôle. As a rule, it has been made terminable (after a short period, commonly a year) upon a few months' notice.

Protocol. — Nations before entering into treaty negotiations sometimes exchange views and incorporate into a rough draft the points to be discussed. This rough draft or preliminary document, on the basis of which negotiations are carried on, is known as a protocol. Such a protocol served as a basis for peace negotiations at the close of the Spanish-American war and also at the close of the war between Japan and Russia. Sometimes the protocol is accepted and becomes virtually a treaty, as was the case in the regulations of 1874 between the United States and Turkey respecting the rights of foreigners to hold real estate in the Ottoman Empire. A protocol does not always precede negotiations, but may form an appendix to a treaty and serve as a means of interpreting the same. The protocol annexed to the naturalization treaty between the United States and Wurtemberg in 1868 is of this nature.

Subject Matter of Commercial Treaties. — The subject matter of a commercial treaty depends, in a large measure, upon the scope and importance of the commercial relations of the contracting parties as well as upon the degree of their political friendship. Early treaties governing the commercial relations between nations were apt to be of a general character, covering the whole field of commerce and navigation. As previously stated, this was the character of the first American treaties of "amity and commerce," of "commerce and navigation," or of "friendship, commerce, and navigation." Later, as particular commercial interests are developed which are inadequately regulated in the general commercial treaties, nations negotiate treaties dealing with such special commercial matters.

"Modern commercial treaties cover a wide variety of subjects. They relate to the treatment to be accorded to persons, to vehicles of communication and transportation, and to commerce in all its phases. Within them there appear provisions as to admission of diplomatic and consular officials, and their rights and activities; immigration and emigration; police protection and civil rights; conditions of travel, residence, and trade; exemptions from extraordinary levies, forced loans, and military service; navigation, quarantine, and harbor regulations and dues; conditions for importation, exportation, transit, transfer, warehousing, tariffs, and customs laws; protection to patents, copy-rights, and trade-marks."¹

Structure of Commercial Treaties. — Some of the more important provisions of commercial treaties may be briefly enumerated:

(a) The preamble of the treaty names the negotiators and states the purpose of the agreement, which is generally "the desire of facilitating and developing the commercial relations established between the two countries." The introductory article often states "that there shall be between the territories of the high contracting parties a reciprocal liberty of commerce and navigation." The general meaning of this clause, as explained in numerous treaties, is that citizens or subjects of the contracting countries shall reciprocally, on conforming to the laws, be at liberty freely to enter, travel, or reside in any part of the respective territories, to carry on their business, acquire and dispose of real or personal property, have access to the courts of justice and enjoy in these respects the same rights as natives or as are conceded to citizens or subjects of the most-favored-nation. This right of complete reciprocity or of the most-favored-nation usually applies also to the vessels of either of the contracting parties.

While prohibitions are opposed to the principle of "reciprocal liberty of commerce and navigation," they are allowed in certain cases. For example, the importation and sale of

¹ *Tariff Commission Report on Reciprocity and Commercial Treaties*, 27.

state-monopolized articles, like tobacco in certain countries as well as some articles of an unsanitary or immoral character, are often forbidden or restricted. Real property rights are often limited. Likewise states are often compelled, for purposes of protection, to make special regulations in the case of certain classes such as druggists, peddlers, commercial travelers, or brokers. The privilege of the coasting trade is generally reserved to ships registered under the flag of the country itself, and this is often the case as regards the fisheries. Concerning prohibitions, the general regulation in American treaties is that "neither of the contracting parties shall establish a prohibition of importation, exportation, or transit against the other which shall not be applicable at the same time to all other nations except the special measures that the two countries reserve to themselves of establishing for a sanitary purpose or in event of a war." Not only is one of the contracting parties often excluded from certain privileges enjoyed by the other, as is indicated above; but also it is often exempted from certain burdens, such as forced loans, forced military service, and certain kinds of taxes. Liberty of commerce and navigation in the territories of the contracting parties usually applies to the entire territory of either country, but this is restricted in certain eastern countries like China and formerly Japan, to certain "open ports."¹

(b) Sometimes a *schedule of customs duties*, agreed to between the contracting parties, forms a part of a commercial treaty. This was a feature of some of the early treaties between the United States and certain Oriental countries like China and Japan. In the treaty of 1844 between the United States and the former there is appended a tariff of duties to be levied on imported and exported merchandise at the five

¹ Open ports include, not only treaty ports, but ports opened by the independent, voluntary action of Chinese authorities.

treaty ports. The exports subject to duties were arranged in fifteen classes and the imports in seventeen. The American-Japanese treaty of 1866 was similar in character. Schedules of customs duties have formed an important feature in most of the American reciprocity treaties as well as in the commercial arrangements based upon conventional and upon maximum and minimum tariffs.

(c) An important feature in many modern commercial treaties relates to the use of *rivers and canals*. Many of the great rivers of the world have been opened to international commerce through international agreements. It was stipulated in the treaty of peace of 1783 that "the navigation of the river Mississippi, from its source to the ocean, shall forever remain free and open to the subjects of Great Britain and the citizens of the United States." The navigation of the St. Lawrence River was a subject of discussion between Great Britain and the United States for many years, but it was finally stipulated in the treaty of 1871 that this river should forever remain free and open for purposes of commerce to the subjects or citizens of either country. Treaties between Great Britain and the United States grant reciprocal rights regarding the navigation of the St. John and the Columbia rivers as well as the use of canals and other waterways on the Great Lakes. Spain questioned the rights of the United States at the mouth of the Mississippi, both banks of which were Spanish territory, but this was finally settled by the American acquisition of Louisiana and the Floridas. The United States obtained by treaties certain rights of navigation on La Plata, Parana, and Uruguay rivers, while the Amazon in South America and the Rhine, Elbe, Danube, and other large rivers of Europe have been thrown open to the commerce of the world. In 1857 the United States was a party to an international agreement between Denmark and the Powers by which the former abolished its system of tolls

between the Baltic and North seas in consideration of a stipulated sum paid by the latter.

Great canals, like the Suez (1888), have become "neutralized." As regards the Panama Canal the United States, in the Hay-Pauncefote treaty, adopted "as the basis of the neutralization of such ship canal" six rules, the first of which provides "That the canal shall be free and open to the vessels of commerce and war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect to the conditions or charges of traffic, or otherwise." Likewise the Treaty of Versailles (1919) stipulates that "The Kiel Canal and its approaches shall be maintained free and open to the vessels of commerce and of war of all nations at peace with Germany on terms of entire equality" and that "The nationals, property and vessels of all Powers shall, in respect of charges, facilities, and in all other respects, be treated on a footing of perfect equality in the use of the Canal, no distinction being made to the detriment of nationals, property or vessels of any Power between them and the nationals, property, and vessels of Germany or of the most favored nation."

(d) An *arbitration* clause for the settlement of special claims is not infrequently inserted in treaties. Such was the case in the Washington treaty of 1871, wherein provision was made for the settlement of certain claims against Great Britain growing out of the Civil War and against the United States respecting Canadian fisheries. Commercial treaties often contain a clause providing for the arbitration of disputes arising over the interpretation or application of the treaty in question. Sometimes there is incorporated in treaties a general arbitration clause for the settlement of political or commercial disagreements. Article XXI of the treaty of 1848 between the United States and Mexico stipulated that

“ if unhappily any disagreement shall hereafter arise between the Government of the two republics, whether with respect to the interpretation of any stipulation in this treaty, or with respect to any other particular concerning the political or commercial relations of the two nations, the said Governments, in the name of those nations, do promise to each other that they will endeavor, in the most sincere and earnest manner, to settle the differences so arising, and to preserve the state of peace and friendship in which the two nations are now placing themselves, using for this end, mutual representations and pacific negotiations. And if, by these means, they shall not be able to come to an agreement, a resort shall not, on this account, be had to reprisals, aggression, or hostility of any kind, by the one republic against the other, until the Government of that which deems itself aggrieved shall have maturely considered, in the spirit of peace and good neighborhood, whether it would not be better that such differences be settled by the arbitration of commissioners appointed on each side, or by that of a friendly nation. And should such course be proposed by either party, it shall be acceded to by the other, unless deemed by it altogether incompatible with the nature of the difference or the circumstances of the case.”

There are many bilateral conventions now in force between nations, providing for the submission of their differences to arbitration. The United States is also a party to the multilateral convention drawn up at the second international peace conference at the Hague in 1907, which declares that “ in questions of a legal nature, and especially in the interpretation or application of International Conventions, arbitration is recognized by the Contracting Powers as the most effective, and, at the same time, the most equitable means of settling disputes which diplomacy has failed to settle ”; and, in Article XIII of the Covenant of the League of Nations, the members of the League subscribe to a similar declaration and agree to submit to

arbitration "disputes as to the interpretation of a treaty, as to any question of international law, as to the existence of any fact which if established would constitute a breach of any international obligation, or as to the extent and nature of the reparation to be made for any such breach."

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SUGGESTIVE TOPICS AND QUESTIONS

1. If Congress passes a law which a foreign power deems a violation of treaty rights, is there any recourse to the courts? *Am. and Eng.*

Encyc. of Law; also *Whitney vs. Robertson*, 124 U. S. 190; *Richter vs. Reynolds*, 59 Fed. Rep. 577.

2. What effect does a tariff law have upon a treaty that is inconsistent with it? *Whitney vs. Robertson*, 124 U. S. 190, 21 Fed. Rep. 565; *Kelley vs. Hedden*, 124 U. S. 196, 31 Fed. Rep. 607.

3. Are treaties or conventions absolutely essential to the maintenance of trade relations between nations? On what other basis may such relations rest? JOHNSON, *Dom. and For. Commerce*, Vol. II, pp. 135, 145; *Handbook of Com. Treaties*, 860-861.

4. When one or both parties to a general commercial treaty are colonial powers, do the provisions of the treaty apply to the trade of their colonies? Tariff Commission, *Report on Colonial Tariff Policies*, 29-31.

5. What preferential treatment does United States accord to Columbia in the treaty of 1921? *Handbook of Commercial Treaties*, 120-121; *Cong. Record*, 61:378-380.

6. To what multilateral treaties and conventions affecting trade is the United States a party? JOHNSON, *Dom. and For. Commerce*, Vol. II, pp. 152-153; ALLEN, *International Relations*. Mention some other problems with which it has been proposed to deal by means of such multilateral treaties. *Commerce Reports*, October 17, 1921, p. 413; February 13, 1922, p. 394; September 11, 1922, pp. 734-736.

7. Compare American restrictions upon the treaty-making power of the Executive with corresponding restrictions in France, Germany, and England. Tariff Commission, *Handbook of Commercial Treaties*, 851-852; Constitution of German Republic, Art. 45; CRANDALL, *Treaties, Their Making and Enforcement* (1st ed.), pp. 151-168, 178-187, 196-199.

8. Is Cuba a sovereign state? Is her right to negotiate commercial treaties in any way abridged? LATANE, *America as World Power*, 177-182, especially 179.

9. Did the commercial treaties of 1854 with Canada, of 1876 with Hawaii, and of 1903 with Cuba involve a change in the revenue laws? If they did, how was the constitutional requirement met—that all bills for raising revenue must originate in the House? Should the question involved be brought before the Supreme Court, what, in your opinion, would be its decision? Why? *Cong. Rec.* for 1903, in connection with the discussion over Cuban Reciprocity; MOORE, *Digest Inter. Law*; BUTLER, *Treaty-making Power*.

CHAPTER XII

RECIPROCITY AND THE MOST-FAVORED-NATION CLAUSE

Meaning of Reciprocity. — The essence of reciprocity, whether applied to individual or state dealings, is mutuality in the matter of giving and receiving. As used in connection with commerce, it denotes a treaty, convention, or other arrangement between two nations whereby one of the contracting parties grants certain advantages to the other in return for the same or equivalent concessions received from the latter. Reciprocity, in the narrower sense, suggests special favors not generalized by a most-favored-nation clause. A reciprocity treaty may be of a very general character, mutual advantages being granted in all matters of trade, or it may be restricted in its scope to special advantages such as those relating to import or export duties, tonnage dues, consular matters, or the like.

Reciprocity was largely absent from early interstate treaties. These were generally one-sided arrangements, often being concessions wrung from a less fortunate rival in war. Even under Mercantilism, where the dominant idea was that a gain to one nation involved a loss to another, retaliation rather than reciprocity was the prominent feature in commercial politics. The latter came into prominence in more recent times with the growth of international law and of foreign commercial relations. In no country may the various phases of reciprocity be studied to a better advantage than in the United States.

First Phase of American Reciprocity. — The first phase of American reciprocity was very general in character, the early treaties of "amity and commerce" between the United States and foreign countries being based upon the broad ground of reciprocity in all matters of commerce. The treaty of 1785 between Prussia and the United States is typical of this, the introductory words of the treaty stating that "His Majesty the King of Prussia and the United States of America, desiring to fix, in a permanent and equitable manner, the rules to be observed in the intercourse and commerce they desire to establish between their respective countries . . . have judged that the same end cannot be better obtained than by taking *the most perfect equality and reciprocity for the basis of their agreement.*"

Second Phase of American Reciprocity. — This phase was more specific in character than the first phase and related to tonnage dues and to duties on imports in foreign ships. As has been previously stated one of the first acts of the Congress of the United States under the Constitution was to levy a discriminating tax on tonnage, whereby American vessels entering domestic ports, as well as merchandise imported in them, paid lower duties than were required of foreign vessels and their cargoes. The first modification of this discriminating law occurred in 1815. Article II of the convention of that year between the United States and Great Britain enacted that "no higher or other duties or charges shall be imposed in any of the ports of the United States on British vessels (or their cargoes) than those payable in the same ports by vessels (including their cargoes) of the United States, nor in the ports of any of His Britannic Majesty's territories *in Europe* on the vessels (or cargoes) of the United States than shall be payable in the same ports on British vessels (or their cargoes)." It is to be noted especially that this *reciprocity applied only to the direct trade* between the United States and

Great Britain, while discriminating duties still governed the trade relations of the United States with British possessions in the West Indies and in North America. This principle of restricted reciprocity was extended, with some modifications, during the next few years to several other countries.

Reciprocity in tonnage duties, which characterized the period between 1815 and 1828 so far as direct trade was concerned, *was extended by the law of May 24, 1828, to include indirect trade.* The United States had repeatedly attempted to obtain from Great Britain a removal of the discriminations which were placed upon American vessels engaged in West Indian trade. Unsuccessful in this under the convention of July 3, 1815, above cited, Congress, during the following decade, passed various laws of a retaliatory character, the final result being that Great Britain agreed in 1830 to open her West Indian ports to American vessels upon the payment of the same duties required of English vessels. This principle of reciprocity in indirect as well as direct trade was extended by proclamation or by conventions to other countries, so that it became the general policy governing the trade relations of the United States with foreign countries until the outbreak of the Civil War. In 1830 Congress repealed all tonnage duties on American ships and on the ships of all nations which had done away with discriminatory duties with respect to this country.

Third Phase of American Reciprocity. — Early reciprocity of a special character both in Europe and in the United States related largely to the subject of tonnage duties and came as a reaction against the navigation policy of various countries, especially of England and of the United States. About 1825 in the former country and somewhat later in the United States the principle of reciprocity began to be prominent in connection with the modification of customs duties. Reciprocity treaties of this kind generally consist in each of the contract-

ing parties granting special or lower import duties on certain articles imported from the other country than are required when the same articles are imported from a third country. Such a plan is apt to invite retaliation from less-favored countries and is difficult to apply in a country like the United States, having the general or single-schedule tariff. As a result most of the attempts in this country to negotiate reciprocity treaties of this character have resulted in failures, the exceptions being those of 1854 with Canada, of 1876 with Hawaii, and of 1903 with Cuba. Very strong political reasons dictated the negotiations of the Hawaiian and Cuban reciprocity treaties. The Canadian treaty of 1854 stands almost by itself as an example of this phase of reciprocity in the United States, although political considerations played no small part both in its conclusion and in its abrogation. It was terminated by this country in 1866. Repeated efforts to reestablish reciprocity relations have been defeated, first in the United States and more recently (1911) in Canada.

Fourth Phase of American Reciprocity. — This phase related to tonnage duties. At the time of the Civil War tonnage duties were reenacted as a war revenue measure. Among subsequent changes a law of 1884 prescribed that vessels entering the harbors of the United States from Central American, West Indian, and certain South American and other near-by ports should pay only three cents per ton for each entry (not exceeding fifteen cents per year), provided American vessels were not required to pay higher tonnage duties in such foreign ports. Vessels entering the United States from all other foreign countries were to pay six cents per ton (not exceeding thirty cents per year). Objections being raised against this law by the less-favored countries, it was changed in 1886, so as to empower the President to suspend by proclamation such tonnage dues "from any port as may be in excess of the tonnage and lighthouse dues or other equiv-

alent tax or taxes imposed in said port on American vessels." The policy was therefore established of abolishing all tonnage duties, provided other countries reciprocate.

However, as most countries maintain some form of lighthouse or other port charges, but few governments were able to take full advantage of this law. Moreover there developed a growing sentiment that the United States did not share equally the advantage of such legislation since so small a percentage of our foreign trade was in American ships. In 1909 the tonnage duties on ships from near-by ports were reduced one third, and the general provision for reciprocal exemption from tonnage duties was repealed. But in the following year provision was made for reciprocal exemption in the case of vessels entering American ports otherwise than by sea; this of course had specific reference to Canada. The provisions in the Tariff Act of 1913 and in the Merchant Marine Act of 1920, as outlined in Chapter VII, are significant of the trend in recent years toward discrimination against foreign vessels and their cargoes.

Fifth Phase of American Reciprocity. — The Tariff Act of 1890 and Section 3 of the Act of 1897 register the fifth phase of American reciprocity. In the former act all "sugars, molasses, coffee, tea, and hides, raw and uncured" were put upon the free list (except that refined sugar paid an import duty of one half cent per pound and also a countervailing duty when imported from countries paying an export bounty). All these commodities, excepting sugar, had paid no import duty for many years. Free sugar was included in the bill when it passed the House in 1890 because there was an overflowing treasury and this, together with a bounty paid to domestic producers, furnished an effective method of reducing the revenue. When the bill reached the Senate there was inserted a clause, largely through the influence of the Secretary of State, Mr. Blaine, which empowered the President to im-

pose by proclamation specified import duties on the above-named commodities if he considered that any country exporting any or all of them to the United States "imposes duties or other exactions on the agricultural or other products of the United States which, in view of the free introduction of sugar, molasses, tea, coffee, and hides into the United States, he may deem to be reciprocally unjust or unreasonable." This reciprocity feature was omitted from the tariff law of 1894. It was reinserted, however, in the Act of 1897; but was made applicable only to coffee, tea, tonka beans, and vanilla beans. Sugar had been placed on the dutiable list in 1894 and retained there in 1897 because of the revenue needs of the government.

In accordance with the law of 1890 reciprocity treaties were negotiated with most of the coffee and sugar producing countries. Colombia, Venezuela, and Haiti were subjected to penalty duties. Although no concessions were obtained from the great tea-exporting nations of Asia or the important hide-exporting country of Argentina, the President did not see fit to place the threatened import duty on tea or hides coming from these countries. These reciprocity arrangements were annulled by the Tariff Act of 1894 and were not renewed under the law of 1897.

Sixth Phase of American Reciprocity. — Section III of the Tariff Act of 1897, in addition to the feature referred to in the preceding paragraph, authorized the President to offer certain specified rates, which were lower than the rates in the general tariff, on imported crude tartar, brandies, champagnes, wines, paintings, and statuary. "The country aimed at," says Professor Taussig, "was France. The higher duties on silk in the new act (of 1897) would especially affect this country and might tempt her to reprisals. Her system of maximum and minimum duties, adopted in 1892, was especially devised as a means of securing concessions in commercial

negotiations. Now the United States followed suit and arranged her own system of duties in such a manner that concessions were provided for in advance. The whole had somewhat the effect of a comedy, each country enacting duties which it did not really care to enforce and offering concessions which it did not regard as real concessions." A reciprocal arrangement, by virtue of this section, was made with France, which went into effect on June 1, 1898, that country granting her minimum rate on certain American imports, the concessions being almost the same as those granted to the United States under the Act of 1890. Similar arrangements were also made by the United States with Portugal, Germany, Italy, and Switzerland.

Seventh Phase of American Reciprocity. — The seventh phase of American reciprocity is merely an extension of the preceding one. "With a view to secure reciprocal trade with foreign countries" the President was empowered by Section IV of the Tariff Act of 1897 to make commercial arrangements with other nations, offering in return for equivalent concessions reductions on import duties (the maximum being twenty per cent), and a transfer to or retention on the free list of certain goods. The law required that treaties be made within two years after the passage of the act and be arranged for a period not exceeding five years. They must furthermore receive the consent of Congress before becoming operative. Several treaties were negotiated by virtue of this law, notably with France, Ecuador, Nicaragua, and also with Great Britain and Denmark for their West Indian colonies and sent to the Senate by the end of 1899; but opposition to them, especially to the French treaty, was strong enough to prevent ratification. Reciprocity was finally settled, so far as the sugar-producing countries are concerned, by a stipulation in the Cuban reciprocity treaty of 1903 granting a reduction of twenty per cent upon sugar imported into the United States from Cuba,

with the proviso that "no sugar the product of any other country shall be admitted by treaty or convention into the United States while this convention is in force, at a lower rate of duty than that provided by the tariff act of the United States approved July 24, 1897."

Eighth Phase of American Reciprocity. — By 1909 the reciprocity movement of the 90's had spent much of its force. The tariff act of that year provided for the termination of all existing reciprocity treaties (except that with Cuba) and substituted a two-schedule tariff system. The rates stated in the law constituted the minimum schedule, while the maximum consisted of these rates plus twenty-five per cent of the value of the articles. Technically the maximum schedule was the general tariff applicable to all countries except those which the President should designate as not unduly discriminating against the United States. Practically it was regarded as a penalty schedule. Before this penalty was applied to any nation, the Tariff Board investigated tariff treatment of the United States by the several nations. Where discrimination was discovered, as in the cases of France, Germany, and Canada, negotiations followed which resulted in some concessions, although not always in full equality of treatment for imports from the United States. By April 1, 1910, Presidential proclamations had declared all nations entitled to minimum rates, and the maximum schedule was never employed. The Act of 1909 "marked a distinct departure from the policy of seeking special favors by granting reciprocal concessions"; the penalty method devised was only partially effective in removing discriminations against American goods in foreign markets.

With the enactment of the tariff of 1913, the whole maximum and minimum arrangement was replaced by a section merely authorizing the President to negotiate reciprocity agreements, which were, however, to become effective only

upon approval by the Congress. No agreements were negotiated under this authorization, and the section has no counterpart in the tariff of 1922. But this latter law does empower the President to impose heavy penalties for discrimination against American exports. (*See Chapter VII.*)

General Summary of American Reciprocity. — In the history of American reciprocity experience, four large periods may be distinguished: (a) Down to 1850 uniformity of customs duties prevailed with respect to goods from all nations, but legislation and negotiation for reciprocal treatment of vessels contributed largely to the elimination of discriminatory shipping duties among the nations; (b) between 1850 and 1890 two important reciprocity treaties affecting tariff rates were concluded — one with Canada and the other with Hawaii; but these were sporadic arrangements entered into independently of general tariff legislation and prompted by considerations political and geographical as well as commercial; (c) from 1890 to 1909 treaties were made in accordance with definite provisions in the Tariff Acts of 1890 and 1897 and in pursuit of ends commercial rather than political, but with a view to regulation of trade relations with individual countries; while (d) since 1909 tariff laws have contained provisions for trade reciprocity of general applicability and framed more with a view of the world-wide commercial situation.

Meaning of the Most-favored-nation Clause. — Reciprocity treaties were at first limited to exclusive and distinct engagements between the contracting parties, each treaty differing more or less from other similar compacts. As such treaties became more frequent it often happened that reciprocal arrangements between two nations were rendered, in a greater or less degree, valueless by one of the contracting parties granting more liberal concessions to some third nation. To obviate this disadvantage it gradually became common to stipulate in reciprocity treaties that each of the contracting

parties would grant to the other every concession granted to the most-favored-nation. This stipulation became known as the most-favored-nation clause. "It is neither the purpose nor the effect of the most-favored-nation clause to establish a 'most-favored-nation'; on the contrary, its use implies the intention that the maximum of advantages which either of the parties to the treaty has extended or shall extend to any third state — for the moment the 'most-favored' — shall be given or be made accessible to the other party; thus in practice to prevent the establishing of distinctions or discriminations in the extending of concessions and guarantees."¹

While traces of such arrangements are found as early as in the treaty of 1654 between England and Sweden, the most-favored-nation clause did not form an important feature in international commercial agreements until the latter part of the eighteenth century. Since that time there have developed two distinct and conflicting usages both as to its form and its interpretation.

Restricted (or American) Most-favored-nation Policy. — The most-favored-nation clause is to be found in the American commercial treaties from the very start. Article II of the treaty of "amity and commerce" of 1778 between the United States and France — the first one negotiated by the American colonies after their Declaration of Independence — stated, that "the Most Christian King and the United States engage mutually not to grant any particular favor to other nations, in respect of commerce and navigation which shall not immediately become common to the other party, who shall enjoy the same favor, freely, if the concession was freely made or on allowing the same compensation, if the concession was conditional." This clause, which is substantially the same as in most of the general American commercial treaties, registers

¹ *Tariff Commission Report on Reciprocity and Commercial Treaties*, 17; for detailed treatment of most-favored-nation clause, see also GREGORY, *Tariffs*, 441-482.

the uniform commercial policy of the United States as regards its interpretation of the most-favored-nation obligation. It should be carefully noted that this stipulation is not opposed to reciprocity. It does not prevent the United States from making reciprocal arrangements with other nations. The most-favored-nation clause means, according to the American interpretation, that the nation to which the United States accords most-favored-nation treatment is entitled to all gratuitous concessions made by the United States to any third country, but may claim American favors granted to a third country in return for compensating concessions only by granting the same or equivalent favors in return. American officials have almost invariably maintained this interpretation, even in the case of treaties which do not contain an express stipulation calling for compensation. It is the failure on the part of some foreign governments to understand the consistent and uniform policy of the American government in this respect that is responsible for the mistaken claim that the United States has in some instances violated her most-favored-nation obligations.

Unrestricted (or European) Most-favored-nation Policy. — In the unrestricted most-favored-nation policy, each contracting party mutually agrees to grant unconditionally to the other every commercial favor granted to a third power. The policy of European nations has not been uniform regarding this subject. Prior to the American Revolution, only the unconditional form was used. From 1820 to 1860 the conditional form was frequently followed in inter-European treaties. But since the free-trade treaty era of the 60's the general tendency has been for most European nations to regulate their international commercial relations upon the basis of unrestricted most-favored-nation rights. This was partially conceded in the Cobden treaty of 1860 between England and France, wherein Article XIX stipulated that "each of the

two high contracting powers promises to grant to the other every favor, every privilege or reduction in import duties of the articles mentioned in the present treaty, which one of them should accord to a third power."

Article XXIV of the Great Britain-Japan treaty of 1911 typifies the British phraseology of the modern comprehensive most-favored-nation clause: "The high contracting parties agree that in all that concerns commerce, navigation, and industry, any favor, privilege, or immunity which either high contracting party has actually granted, or may hereafter grant to the ships, subjects, or citizens of any other State, shall be extended immediately and unconditionally to the ships or subjects of the other high contracting party, it being their intention that the commerce, navigation, and industry of each country shall be placed in all respects on the footing of the most-favored-nation." Like the conditional (or compensation) clause of American usage, such a form is fairly unequivocal. But, over certain general or indefinite forms have arisen controversies between nations adhering to conditional interpretation and those adhering to unrestricted interpretation of favored-nation agreements.

The general denunciation of treaties by European nations during the World War left the future of the most-favored-nation clause quite uncertain; but post-war readjustment of treaty relations has been marked by a general retention of the unconditional most-favored-nation principle. Occasional exceptions, however, are to be noted; for example, the commercial treaty of 1920 between Austria and Jugo-Slavia provides most-favored-nation treatment but permits each contracting party to grant special concessions to other countries without the obligation of extending such special concessions to the other party except in return for equivalent concessions.

Scope of the Most-favored-nation Clause. — The scope of the most-favored-nation clause differs in different countries

and is not always the same for different treaties in the same country. In the commercial treaties of the United States the most-favored-nation provision refers in some cases to "any particular favor in navigation or commerce," while in other instances it applies to specific subjects. In fact in a given treaty it frequently appears in two or more articles; in one as a comprehensive covering article and in others as stipulations concerning specified matters. In the 1911 treaty of commerce and navigation between United States and Japan, for example, no less than five articles embody most-favored-nation provisions concerning *particular subjects* such as consuls, customs duties and prohibitions, access to ports, vessels in regular postal service, and coasting trade; and then in Article XIV "Except as otherwise expressly provided in this Treaty, the High Contracting Parties agree that, *in all that concerns commerce and navigation*, any privilege, favor, or immunity which either Contracting Party has actually granted, or may hereafter grant, to the citizens or subjects of any other State shall be extended to the citizens or subjects of the other Contracting Party gratuitously, if the concession in favor of that other State shall have been gratuitous, and on the same or equivalent conditions, if the concession shall have been conditional." Ordinarily the comprehensive covering article is intended, when reference is made to "the most-favored-nation clause."

In special treaties most-favored-nation provision is of course confined to the particular subjects dealt with. In the Frankfurt treaty at the close of the Franco-Prussian war, it extended to import, export, and transit duties as well as to customs formalities. It is sometimes restricted to a few articles such as sugar and rice in the treaty of 1841 between England and the German Zollverein or coal and iron in the treaty of 1846 between Belgium and Holland. Occasionally special articles are exempted from most-favored-nation treatment, as, for

example, sugar in the provisional treaty of 1881 between France and Austria and certain silk fabrics in the treaty of 1913 between Italy and Japan.

A notable restriction was made in the treaty of Frankfort as to the most-favored-nation regulation between France and Germany, Article XI stipulating that either of the contracting parties must grant the other gratuitously and unconditionally concessions given to England, Belgium, Holland, Switzerland, Austria, and Russia. Commercial treaties of colonial powers differ widely as to inclusion or exclusion of their colonies; but as a rule most-favored-nation treatment applies to domestic products or vessels and not to those of colonies. Peculiar conditions sometimes lead to exceptions or reservations in most-favored-nation provisions. Some contiguous countries, for example, grant special favors regulating their border traffic, the advantages of which most-favored-nations may not claim. Thus the commercial agreement between Italy and Poland in 1921 stipulated that neither country was obligated to grant to the other privileges granted to border nations with respect to frontier trade or special favors resulting from customs unions. In the commercial treaty of 1922 between Germany and Latvia, the former did not grant to the latter the special concessions which the Treaty of Versailles requires her to make to certain other regions, and the latter reserves all the advantages which may be granted to the neighboring States of Finland, Lithuania, and Soviet Russia. Close political relations may explain preferential treatment, as was the case in the American-Hawaiian treaty of 1876, Germany and other European countries vainly claiming from Hawaii, by virtue of most-favored-nation agreement, the privileges extended to the United States.

While the most-favored-nation right is generally reciprocal and enjoyed by both parties, this is not always the case, especially in treaties between Western and Eastern nations.

Article XI of the treaty of 1856 between the United States and Siam, for instance, stipulated that "the American government and its citizens will be allowed free and equal participation in any privileges that may have been or may hereafter be granted by the Siamese government to the government, citizens, or subjects of any other nation"; but there was no reciprocal obligation on the part of the United States to extend the same privileges to Siamese subjects. This unilateral type of most-favored-nation clause is illustrated in the treaty of Versailles which closed the World War. By its terms, "Every favor, immunity, or privilege in regard to the importation, exportation, or transit of goods granted by Germany to any Allied or Associated State or to any other foreign country shall simultaneously and unconditionally, without request and without compensation, be extended to all the Allied and Associated States." This and similar stipulations regarding other matters are not paralleled, however, by any corresponding assurances on the part of the Allied and Associated Powers.

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SUGGESTIVE TOPICS AND QUESTIONS

1. Is reciprocity consistent with a policy of tariff for revenue only? GREGORY, *Tariffs*, 236-238.

2. Explain Roosevelt's statement that "reciprocity must be treated as the handmaiden of protection." Did this idea underlie the Canadian treaty of 1854? The reciprocity measures of the United States after 1890? LAUGHLIN AND WILLIS, *Reciprocity; Report on Rec. and Com.*

Treaties, 63-71, 139, 222-227; STANWOOD, *Tariff Controversies*, Vol. II, pp. 275 *et seq.*

3. What are the comparative advantages of concessions and of additional (penalty) duties as measures for enforcing equality of treatment in international trade? CULBERTSON, *Commercial Policy*, 183-192; *Report on Rec. and Com. Treaties*, 11-15.

4. Germany claimed that the United States should extend to her the reductions made to France in 1898 on the ground that the United States enjoyed all the benefits of the German conventional tariff. Was the American Government justified in refusing this claim? Switzerland claimed the same concessions and was granted them; was this right? *Report on Rec. and Com. Treaties*, 205-206; *Jour. Pol. Econ.* 2: 231.

5. How do you account for United States adherence to the conditional most-favored-nation clause while European nations have adopted the unconditional? Give illustrations of controversies which have arisen because of this difference in usage. In what ways might such controversies be avoided in the future? *Report on Rec. and Com. Treaties*, 17-20, 59, 416-444; GRUNZEL, 170; CRANDALL, *Treaty-making* (2d ed.), Secs. 172-175, Appendix I, pp. 466-634.

6. What are the peculiar advantages and disadvantages of the conditional form and interpretation of the most-favored-nation clause? Of the unconditional? Should the United States adopt the unconditional? What would be the gain (or loss) if all nations abandoned the most-favored-nation clause? *Annals*, 32: 122-129; CULBERTSON, *Commercial Policy*, 192-200; *Report on Rec. and Com. Treaties*, 403, 439-444; GREGORY, *Tariffs*, 450-465. What procedure would be necessary to change the American interpretation? *Jour. Pol. Econ.*, July, 1907, p. 388.

7. What is meant by "National Treatment" (or "Inland Parity") in commercial treaties? To what classes of subjects is it applied? Illustrate by analysis of a treaty of United States with some foreign power (e.g. Austria, 1921; Japan, 1911). *Handbook of Commercial Treaties*, 5-9, 105-106, 140-142, 146-147, 176-182; GRUNZEL, 170-175; GREGORY, *Tariffs*, 443-445.

8. What is the practice of Central and South American countries as to conditional or unconditional most-favored-nation clause? The practice of Asiatic countries? *Report on Rec. and Com. Treaties*, 395.

9. Make a study of unilateral most-favored-nation provisions in treaties to which United States is a party. *Handbook of Com. Treaties*, 108-162; *Report on Rec. and Com. Treaties*, 445-450.

10. When a treaty to which the United States is a party contains two or more most-favored-nation clauses, one a covering clause, what interpretation do our courts place on these most-favored-nation features, if some of them are in conditional (compensation) form and others are not? *Report on Rec. and Com. Treaties*, 422-423.

11. Give examples, in United States history, of special commercial arrangements which were excepted from the operation of the most-favored-nation clause on the ground of some "special circumstances." What were the "special circumstances" pleaded in each case? Were they sufficient to justify the exceptions? *Report on Rec. and Com. Treaties*, 42, 391, 409, 414, 418, 421 *et seq.*

12. What experiences under the Tariff Act of 1897 illustrate the peculiar difficulties of concluding commercial agreements under the American system of government? *Report on Rec. and Com. Treaties*, 216-228; LAUGHLIN AND WILLIS, Ch. 10.

13. How do you account for the difficulty in establishing and maintaining reciprocity tariff agreements between United States and Canada? See bibliography of Ch. XII, especially *Report on Rec. and Com. Treaties*; *Jour. Pol. Econ.*, July, 1911; *Quar. Jour. Econ.*, August, 1921; *Yale Review*, January, 1912; ROBBINS, *Selected Articles on Reciprocity*; *Fortnightly Rev.*, March, 1911.

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CHAPTER XIII

PUBLIC TRADE PROMOTING INSTITUTIONS

I. THE DEPARTMENT OF STATE

General. — While it may be said that all governmental activities have an influence in developing a nation's commerce and industries, most civilized countries have special legislative committees and executive departments or bureaus devoted to the furthering of foreign commerce and commercial relations. In the legislative branch of the American government there are various standing committees of the House of Representatives and of the Senate which have duties affecting the foreign commerce of the United States. Among the former may be mentioned the committees on foreign affairs, interstate and foreign commerce, insular affairs, and merchant marine and fisheries; while the standing committees of the Senate include those on commerce, foreign relations, interoceanic canals, Cuban relations, Pacific Islands and Porto Rico, the Philippines, and Canadian relations. Besides these standing committees there are also certain special or select committees, such as the Senate committees on industrial expositions and on the transportation and sale of meat products.

In the executive branch the President may exercise a commanding influence over trade policies through his power of appointment and removal, through the ordinance power as illustrated by Presidents Taft and Wilson in the adjustment of Panama Canal tolls, and especially through his authority

over foreign relations including the negotiation of commercial treaties. Many executive departments are definitely charged with duties relating to foreign trade. This is notably true of the Department of State, the Department of Commerce, the Treasury Department, the Department of Agriculture, and the War Department. Significant also in this connection are various international and national commissions and boards.

The Department of State. — Historically the department most vitally related to foreign trade has been the Department of State; and to-day it shares with the Department of Commerce preëminence in government protection and promotion of foreign-trade interests. It affects these interests primarily through the diplomatic service and the consular service.

It is charged, under the President, with the duties appertaining to correspondence with the public ministers and the consular officers of the United States and with the representatives of foreign powers accredited to the United States. It negotiates treaties and international agreements governing American trade and safeguards national rights thus determined. It grants and issues passports to American citizens and exequaturs to foreign consuls in the United States. It publishes, among other things, an annual volume of the *Foreign Relations of the United States*, American treaties, and other miscellaneous matter of a commercial character. It controls the diplomatic officers in every country, who are required to make frequent reports upon events and policies affecting international relations. It directs the consular service, which is the oldest, and in some sense the basic, governmental agency in the field of American trade extension.

Consular Service in General. — Officers with duties of a diplomatic or consular nature were appointed in very ancient times, but the modern consular system dates from the rise or revival of commerce in the Italian cities at the time of the Crusades. Since then, the system has become a part of the

commercial politics of all civilized countries. Formerly it was chiefly concerned with the protection of citizens living or traveling abroad and with the safeguarding of maritime interests. In recent decades, however, alert commercial nations are stressing active aid to foreign trade as a consular function. Officers of the diplomatic service and those of the consular service are both appointed by a Government to reside in some foreign country. The fundamental difference is that the former deal with the Government to which they are accredited, while the latter deal with the people of the country in which they are stationed. Both are concerned with matters political and matters commercial; but the former have to do principally with political relations, the latter with the protecting and fostering of commercial interests. The general duties and privileges of consular officers are determined principally by international law, by treaties, by local customs, and by statutory enactments, and therefore vary somewhat to meet local or national conditions. With the growth of consular duties has come an extension of their rights and privileges through usage and treaties. Meanwhile consular functions have become fairly well standardized among the leading nations, except that protection of the customs revenue is a distinctive feature of the American consular service.

The principal consular officers are usually appointed by the national executive (in the United States by the President with the advice and consent of the Senate), while subordinate consular officers are usually designated by the Secretary of State or by the principal consular officers. In most of the advanced nations consular appointments are based upon competitive examination, tenure is during good behavior, and advancement is the result of merit — conditions which offer honorable public careers to ambitious young men. Usually a principal consular officer is accredited by the home Secretary of State to the corresponding officer in the foreign country, and before en-

tering upon the duties of his office he must obtain from the latter an exequatur or written permission to act in his official capacity.

Development of the American Consular Service.¹—During the War for Independence, consular functions were exercised by the American commissioners in Europe in addition to their diplomatic duties. The first consul of the United States was appointed in 1789. After the adoption of the Constitution, which conferred upon the President in conjunction with the Senate the power of naming consuls, several appointments were made; but the first general law was not passed until 1792.

Act of 1792. Under this act and its several amendments the duties of consular officers were to safeguard the interests of seamen and of American citizens abroad, to protect their property, and after 1818 to protect the customs revenue through certification of invoices. With rare exceptions they received no salaries, but were dependent for a living upon fees and private business out of which grew flagrant abuses; and the simple provisions for consular organization were quite inadequate for the service which was rapidly growing numerically and geographically in a period when American ships were covering the seas.

Act of 1856. After years of agitation, a reorganization measure was enacted in 1856 which authorized salaries for the higher consular officers in lieu of official fees and excluded those of highest rank from private business. Minor officers were unaffected by the law, except that the President was empowered to fix the amount of official fees. Unofficial fees were still collected by all officers. The rights, powers, and duties of consuls were, however, more fully set forth; and the President was empowered to issue supplementary regulations concerning the conduct of the affairs of the service. For the first time consuls were required to "furnish commercial

¹ See Jones, *The Consular Service of the United States*, Chs. 1-4.

information for the benefit of the people of the United States."

With slight alterations this law remained on the statute books for fifty years, despite early recognition of its serious defects. Under it, (1) appointment rested on political influence rather than on fitness; (2) tenure was insecure and so experience could not be capitalized; (3) only a part of the officers were salaried, and those often inadequately; (4) much of the fee-system evil survived; (5) enforcement of regulations was lax, owing to lack of inspection of consular offices; (6) and "the organization was inflexible and not responsive to the commercial needs of the country." Efforts at reform were unavailing, however, until reënforced by the trade organizations toward the close of the century. Some impetus to the merit system in the consular service was given by the Executive Orders of Cleveland in 1895 and of Roosevelt in 1905, and in 1906 Congress passed a far-reaching consular law.

Act of 1906. By its terms, several classes of consuls general and consuls were established, with a designated salary for each class; the scale of salaries was made more liberal; all fees, official and unofficial, were to be paid into the Treasury of the United States (except one half the fees collected by consular agents); foreigners were not to be appointed to any post in the American consular service paying a salary of more than \$1000; no consul general, consul, or consular agent receiving a salary of \$1000 or more was permitted to engage in any business within his district; and five consuls general were authorized to act as inspectors of consulates. Unfortunately provisions designed to extend civil service rules to appointments and promotions were eliminated from the bill before its passage. Much, however, was accomplished to supply this deficiency by means of Executive Orders of the President. The service was now on the high road to efficiency, although not entirely beyond the reach of political influence.

More Recent Measures for Improving the Consular Service.

— In more recent years various measures have been taken with a view to the increased effectiveness of consular work. These include acts of Congress, executive orders, and exercise of departmental discretion. For example, the lowest grades of consul general and consul, which were least adequately paid, have been abolished; Congress has authorized the Secretary of State to purchase sites and buildings abroad suitable for diplomatic and consular establishments, but has made only slight appropriations for this purpose; a Director of the Consular Service was appointed in 1909 to have general supervision of the service under the direction of the Secretary of State; a detailed efficiency record of each consular officer has been instituted at Washington; the number of consuls general at large serving as inspectors of consulates has been increased to seven; arrangements have been made for consular officers on leave of absence in the United States to hold official conferences with business men interested in trade with the foreign countries in which those officers are stationed; and the importance of complete Americanization of the service has been emphasized by stipulation in recent appropriation acts that "every consul general, consul, vice consul, and wherever practicable every consular agent, shall be an American citizen."

An act of Congress, approved February 5, 1915, sets forth the classification and salaries of consuls general and consuls. Appointments are to be made by commission to the offices of consul general and consul and not to particular posts. Such officers are to be assigned to posts and transferred by order of the President as the interests of the service may require, and they may be assigned to duty in the Department of State for a limited period without loss of grade, class, or salary. These provisions were designed to give greater elasticity in meeting changing commercial conditions and needs. Also

the Secretary of State was directed to report from time to time to the President, along with his recommendations for promotion or transfer, the names of those consular or department officers who have demonstrated special efficiency as well as persons found upon examination to have fitness for appointment to the lower grades of the service.

In 1919 were established three classes of vice consuls of *career*, chosen by promotion or upon examination and eligible to advancement to consulships without further examination. These positions afford a definite channel through which student interpreters and other subordinates may attain to consular rank. In the following year the first economist consuls were sent out. Provision has been made for twenty-five such appointees with the rank of consul. They must be graduates of standard colleges or universities with at least two years' experience in economic and statistical research. They are assigned to selected consulates general not to engage in routine duties, but to give exclusive attention to economic investigations and to assist consuls general in the supervision of economic investigations made by other consuls under supervision of the consuls general.

American Consular Officers: Classified and Unclassified Service.—According to American statute the term "consular officer" embraces consuls general, consuls, vice consuls, interpreters, consular assistants, student interpreters, and consular agents. Consuls general and consuls are designated as principal or permanent officers, as distinguished from the others who are subordinates or substitutes. By regulation the consular force is divided into two branches.

(a) By far the larger and more important of these is the *Classified Service*. This embraces the following ranks and grades: (1) *Consuls general* represent the highest rank. Of these, seven are designated as consuls general at large, or traveling inspectors of consulates. The others are assigned

usually to commercial cities of first importance or to posts where political conditions make the presence of a consular official bearing this high title especially desirable. As a rule, not more than one American consul general is stationed in any one country, and he has certain supervisory powers over consuls in his district. Of consuls general there are four classes, with salaries ranging from \$5500 to \$12,000. (2) *Consuls* are next in rank and are the most numerous grade of consular officers. They are of seven classes, the salary for the lowest class being \$3000 and for the highest, \$8000. Most consuls are placed in charge of consulates, although some serve under other consuls and a few of the third, fourth, and fifth classes act as economist consuls. (3) *Vice consuls of career* perform consular duties within the territory of a consulate, normally as subordinates of the chief consular officer, but as substitutes in case of his absence. Three classes are recognized, with salaries of \$2500, \$2750, and \$3000 respectively. (4) *Interpreters* of junior grade receive \$2500 and those of senior grade, \$3000. (5) *Consular assistants* are appointed by the President; hold office during good behavior; and are assigned to such consular duties as the Secretary of State may direct. They are eligible to promotion to the grade of vice consul of *career* without further examination. (6) Provision is made for *student interpreters* in China, Japan, and Turkey. They must be American citizens and are required to study the language of the country to which they are sent with a view to becoming interpreters and vice consuls, and eventually consuls or consuls general upon full qualification.

(b) The *Unclassified Service* includes vice consuls (not of career), consular agents, and clerks. *Vice consuls* (not of career) are not eligible to promotion to higher grades without taking the usual examinations. A *consular agent* is an officer subordinate to a consul general or a consul, exercising similar but limited powers at a place different from that at which the

consulate general or consulate is situated. He usually acts entirely under the direction of his principal, and is usually a local business man. *Clerks* in consular offices may be selected by the officer in charge, but are more frequently selected and appointed by the Secretary of State. Preference is given honorably discharged soldiers and sailors with requisite qualifications.

Regulations Governing Appointments and Promotions. — By the Executive Order of June 27, 1906, the President prescribed regulations to govern the selection of consular officers, subject to the advice and consent of the Senate. These regulations, as amended by subsequent Executive Orders, are summarized below: (1) vacancies in the offices of consuls general and consuls above class six (except economist consuls) are to be filled by promotion from the lower grades; (2) economist consuls may be chosen by Civil Service examination for economist and oral consular examination; (3) vacancies in consulships of classes six and seven shall be filled by (a) promotion of subordinate consular officers or (b) new appointment of candidates passing satisfactory examination; (4) Department of State officials having a salary of \$2000 or over are eligible for any consular post above class three of vice consuls; (5) vice consuls *of career* shall be chosen by (a) promotion upon the basis of ability and efficiency shown as consular assistants and student interpreters or (b) examination for appointment as consul or vice consul; (6) a representative of the Civil Service Commission, the Chief of the Consular Bureau, the Director of the Consular Service, and one other official of the Department of State shall constitute a Board of Examiners for admission to the Consular Service; (7) candidates must be between the ages of twenty-one and fifty, citizens of the United States, of good health and character, and must be specially designated by the President for appointment to the Consular Service subject to examination;

(8) whenever a vacancy occurs in the sixth or seventh class of consuls " which the President may deem it expedient to fill ", the list of candidates who have passed the examination shall be sent to him " for his information "; (9) all promotions must be based on efficiency ; (10) all subordinate officers must pass the required examination in order to be eligible for promotion to consular rank ; (11) in the matter of appointments the political affiliations of the candidates are not to be considered, but due regard must be had to securing proportional representation among the states and territories.

The increasingly close adherence to these salutary regulations is indicated by the following excerpt from the report of a special investigating committee of the National Civil Service Reform League: " During the first fifteen months of the administration of President Harding there has not been a single exception to the rules requiring appointments through examination in the Consular Service. The original appointments have all been made strictly in accordance with Executive Orders and the promotions have been based more strictly than ever before upon an impartial determination of the relative efficiency of the officers of the service. The basis of the promotions made is a report of the relative merit of all the officers in the Consular Service prepared by a board of review showing the relative efficiency of the various officers."

Regulations Governing Examinations. — In pursuance of the foregoing Executive Orders, the Board of Examiners has adopted certain regulations governing examinations. These examinations are the same for all grades of the service and are both oral and written. The object of the oral examination is to determine the candidate's general fitness as to business ability, alertness, character, address, general information, and command of English. The written examination includes at least one modern language other than English (*i.e.* German, French, or Spanish) ; the natural, industrial, and commercial

resources and the commerce of the United States; political economy; international, commercial, and maritime law; American history, government, and institutions; political and commercial geography; arithmetic (as used in commercial statistics, tariff calculations, exchange, accounts, etc.); modern history of Europe, Latin America, and the Far East, with especial reference to political, commercial, and economic developments. Attention is given also to the technique of English expression. For appointments in countries where the United States exercises extraterritorial jurisdiction, additional examinations are required in the common law, the rules of evidence, and the trial of civil and criminal cases.

Duties of American Consular Officers. — The manifold functions of our consular service fall mainly under three general heads: (a) First of all, it is designed to *guard the rightful interests of American citizens* and to protect them in all privileges recognized by treaty or by international usage. Thus consuls are expected to visé and, in some cases, to issue passports; settle personal estates of Americans who die abroad without legal or other representatives; adjust disputes between masters and seamen of American vessels; to ship and discharge American seamen and under certain conditions maintain them and return them to the United States; investigate charges of mutiny and insubordination and send mutineers to the United States for trial; assist in cases of wrecked or stranded American vessels; receive the papers of American vessels arriving in foreign ports and deliver them when the vessels have discharged their obligations to their crews and secured clearances from the proper foreign port officials; in case of disasters, report to the State Department as to Americans or American interests affected; act as witnesses of marriages of American citizens abroad; take depositions and perform other notarial functions; and, in so-called non-Christian countries, exercise, in accordance with treaties, certain ju-

dicial powers over American citizens in those countries, usually including trial of civil cases to which Americans are parties and sometimes of criminal cases as well.

(b) With a view to *safeguarding health and welfare at home* consular officers are also required to aid in the enforcement of the immigration laws, and to certify to the correctness of the certificates issued by Chinese and other officials to Chinese persons coming to the United States; to report weekly the sanitary and health conditions of the ports at which they reside; to issue to vessels clearing for the United States bills of health describing the condition of the ports, the vessels, crews, passengers, and cargoes; and to assist in the enforcement of the plant quarantine and of laws for the protection of the United States against the introduction of animal diseases. Incidentally they serve the various departments of government, scientific organizations, and individuals by gathering data touching many fields of human endeavor.

(c) Consular work affecting foreign trade includes: (1) participation in the enforcement of American customs and re-export regulations, as consular officers are required to certify to the correctness of the valuation of merchandise exported to the United States whenever a shipment amounts to more than one hundred dollars and to certify to the landing abroad of merchandise shipped from the United States on which a refund of duty or taxes is claimed by virtue of its exportation; (2) gathering and reporting information for the guidance of the Department of State in the shaping of foreign policy which may vitally affect international commercial relations; and (3) activities aimed more directly and specifically at the promotion of American trade. Each consul is expected to keep in close touch with commercial and industrial affairs in his district, so that he may furnish American manufacturers and exporters with accurate information as to trade conditions in that foreign field. He aids in the development and main-

tenance of trade relations through personal contact with the foreign business men in his district, with American business men visiting his consulate, and with American business men at home when he is on leave of absence in this country ; through direct correspondence with inquiring Americans (although most inquiries would better be made through Washington, where information desired is likely to be more promptly available) ; and through reports transmitted to the State Department.

These reports present the widest variety and touch almost every conceivable subject having a commercial bearing. They may be in the nature of telegraphic notices of opportunities for the sale of American products, occasional and miscellaneous items of trade interest, or more exhaustive presentation of the results of special investigations. Some are regular and others occasional ; some are in response to instructions from the Department of State, others are voluntary upon subjects of the consul's own choosing. Instructions as to reports are often given upon request from private parties or from government departments or bureaus outside the Department of State. But consuls submit all reports to the State Department, where they are studied with reference to their bearing upon international relations. The commercial reports are, after preliminary editing, turned over to the Department of Commerce, where they are utilized freely in the work and publications to be discussed in Chapter XIV.

Obviously the multiplicity of other duties is likely to leave the principal consular officers all too little time for the larger aspects of the trade situation — for “ that continuous and painstaking attention to trade investigations which is necessary to be given in order that pace may be kept with the commercial competition of aggressive foreign nations.” In recognition of this fact the government has provided various supplementary services both in the Department of State and in other administrative branches.

Office of Foreign Trade Adviser. — Because the official relations of nation with nation are so largely concerned with commercial questions, the Department of State has found it important to maintain some sort of special service for the handling of trade matters involved in its work. Since 1912, this service has come through so-called foreign trade advisers. The added responsibilities of the Department, because of economic developments incident to the war and to the post-war transition, furnished occasion for great expansion of the work of the Office of Foreign Trade Adviser. By 1920, its staff came to number sixty-six persons, and its activities included, not only control of the commercial work of the diplomatic and consular services, distribution and handling of diplomatic and consular reports, study of economic facts bearing upon international relations, and advice to department officers as to commercial and related matters, but also increasing attention to direct correspondence with business men regarding commercial situations and problems. But since 1921 the activities of this Office have been confined to a much narrower range. Its trade-promoting work has been terminated by department order and many other functions have been turned over to the Director of the Consular Service and to the Division of Political and Economic Information in the State Department.

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CHAPTER XIV

PUBLIC TRADE PROMOTING INSTITUTIONS

II. THE DEPARTMENT OF COMMERCE

Origin and Scope of the Department of Commerce. — Many countries have special departments which are charged with the work of promoting domestic and foreign commerce. Sometimes such departments have charge of commercial matters only, but more often they are concerned also with allied interests such as industry, agriculture, mining, fisheries, navigation, labor, etc. In the United States, the Department of Commerce and Labor was organized in 1903 by the transference of several bureaus, boards, etc. from other governmental departments and by the formation of some new bureaus. The purpose of this department, as expressed by law, was "to foster, promote, and develop the foreign and domestic commerce, the mining, manufacturing, shipping, and fisheries industries, the labor interests, and the transportation facilities of the United States." Ten years later, the "labor interests" were made the responsibility of a newly created Department of Labor, while the remaining functions enumerated above were assigned to a Department of Commerce. Within the latter department have been set up eight bureaus: the Bureau of Foreign and Domestic Commerce, the Bureau of Standards, the Bureau of the Census, the Bureau of Fisheries, the Bureau of Lighthouses, the Coast and Geodetic Survey, the Steamboat Inspection Service, and the Bureau of Navigation. Most of these touch foreign commerce at vital points; but the one specially charged with trade promotion is the Bureau of Foreign and Domestic Commerce.

The Bureau of Foreign and Domestic Commerce. — This bureau is the result of a merging in 1912 of three bureaus: the Bureau of Statistics originally in the Treasury Department, for the compilation and publication of statistics of foreign and domestic commerce; the Bureau of Foreign Commerce, formerly in the Department of State, chiefly for the publication of consular reports; and the Bureau of Manufactures provided for in the Department of Commerce and Labor upon its establishment in 1903, "To foster, promote, and develop the various manufacturing industries in the United States, and markets for the same at home and abroad, domestic and foreign, by gathering, compiling, publishing, and supplying all available information concerning such industries and such markets, and by such other methods and means as may be prescribed by the Secretary or provided by law." Its name and that part of the law above quoted would seem to indicate that the promotion of American industry was the primary purpose and the advancement of American commerce the secondary purpose of the Bureau of Manufactures. Since, however, the interests of the former were receiving considerable attention from the Bureau of the Census, the Bureau of Manufactures emphasized the commercial interests of the country. This emphasis has been conspicuous in the work of the Bureau of Foreign and Domestic Commerce. Its attention to domestic commerce has been secondary (although greatly increased under Secretary Hoover); but, through it, has been carried on the most important governmental work in behalf of foreign trade. By it, lines of investigation are formulated; data gathered; results tabulated, compiled, and published; and information made available for Congress, for administrative departments and officials, and for business men.

The Work of the Bureau Abroad. — The Bureau of Foreign and Domestic Commerce works abroad through a threefold

force: the consular officer, the trade commissioner, and the commercial attaché. As we have seen, the consuls are attached to the Department of State; but, through coöperation, the fruits of their labors in the interest of trade are placed at the service of the Bureau of Foreign and Domestic Commerce. In fact, by the law creating the Department of Commerce and Labor in 1903, all consular officers are required "under the direction of the Secretary of State, to gather and compile from time to time, useful and material information and statistics . . . and to send, under the direction of the Secretary of State, reports as often as required by the Secretary of Commerce and Labor of the information and statistics gathered." Their significance as an investigational and reporting staff is suggested by the fact that some eight hundred consular officers are constantly at work abroad in hundreds of cities throughout the world.

Trade Commissioners. — In 1905 Congress made provision for four commercial agents. Their number has since been increased; they have been placed under the direction of the Bureau of Foreign and Domestic Commerce; and they have come to be known as trade commissioners. They are specialists chosen by competitive examination designed to test their qualifications as investigators. They have sometimes been assigned subjects for investigation in the United States, such as water terminals and port facilities and the dyestuff situation. But their work is primarily in foreign countries. (1) Some of them are designated as resident trade commissioners and are stationed at important posts either to study and report upon special phases of the situation in a given area or to keep in touch with the general commercial and economic conditions within a designated region. Such commissioners sometimes serve as assistants to commercial attachés, but they have no official connection with the State Department and are not regarded as commercial diplomats. (2) Other

trade commissioners have no fixed post, but travel from place to place pursuing selected lines of investigation, such as markets for a particular commodity in one or more countries, or foreign credits, commercial organizations, commercial practices, or other factors and institutions affecting the development of American foreign trade.

Commercial Attachés. — The duties of diplomatic officers are, as previously stated, primarily political, while those of consular officers are principally commercial. Nevertheless commercial questions are constantly arising which diplomatic officers, because of their closer relations with foreign governments, are often in a better situation to consider than are consular officers. Several countries bridge the gap between these two classes of officials by the appointment of commercial attachés who may be styled commercial diplomatic agents, since they are both members of an embassy or legation and are employed as experts on commercial questions arising between home and foreign governments. The plan was inaugurated in England in 1880. Subsequently commercial attachés came to form a part of the diplomatic service of other nations, including Russia, France, Italy, Japan, and quite recently Brazil, Venezuela, and Mexico; Germany also had commercial experts attached to consulates before the war. As to details of relationship of commercial attachés to the department of state (or foreign affairs) and to the department representing distinctively commercial interests, there is considerable variation from country to country. In general this service stands in much the same relation to commerce as the military and naval attaché service does to military and naval affairs.

After years of agitation in the United States, Congress made an appropriation in 1914 for a corps of commercial attachés to supplement the trade efforts of consuls and commercial agents (trade commissioners). They are appointed

by the Secretary of Commerce after examination held under his direction to determine their competency. They are accredited through the Department of State to the embassies or legations of the United States in the capitals of the countries to which they are assigned. Unlike many trade commissioners, the commercial attaché is therefore more or less permanently stationed in a given country, where he shares the prestige and the privilege of direct relations with the government which are accorded to diplomatic representatives, and his attention is not confined to a single line of economic interest. Unlike the consul, he devotes all his time to commercial problems, his field is usually at least nation-wide, and he reports directly to the Department of Commerce, not to the Secretary of State. Copies of his reports are, however, supplied to the Office of Foreign Trade Adviser in the State Department.

The duties of the American attaché have been characterized as threefold: (1) as representative of the Department of Commerce, to report on economic developments and markets for American products; (2) as attaché to the embassy or legation, to advise the chief of the diplomatic mission upon commercial matters and to assist in commercial work; and (3) as promoter of American foreign trade, to advise and assist American business men traveling abroad and to assist foreign importers who desire to purchase American goods. He is also brought back to the United States at regular intervals in order to stimulate interest in foreign trade and interpret economic developments which have taken place in his territory. Just what he shall do, will be determined largely, not only by instructions from the department, but by the individual initiative of the attaché, the peculiarities of the local situation, and exigencies of the time. He is not merely to learn and report fully what is being done in the commercial field in his district; but, in the words of ex-Secre-

tary Redfield, "to help build upon this the affirmative structure of our commerce. He should have vision to see what is not done, to determine what is needed, and point out the way to get it. The attaché should be alert to find out the weak spots in our competitor's armor, and advise how our business men may get a thrust therein. He is to do creative and not imitative work."

The type of men sought for these positions is suggested by the nature of the examination prescribed for early candidates by the Secretary of Commerce in coöperation with the Civil Service Commission. "It was provided that there shall be both a written and an oral examination, each counting equally. The written test called for the preparation of a series of short theses on various subjects bearing directly upon the work which a commercial attaché would be called upon to undertake. Among these topics were the following: special difficulties in export trade; methods of promoting export trade; manufacturing and banking conditions in the United States in relation to export trade. Also the candidate was required to write a thesis of 500 words in French, German, or Spanish on some topic intimately related to business affairs. Those who succeeded in passing this examination with a mark above 70 per cent, and whose credentials showed that their education and business experience would justify further consideration by the examiners, were requested to present themselves before a board composed of the officers of the Bureau of Foreign and Domestic Commerce, the Civil Service Commission, and the State Department. This was for the express purpose of making a test of ability to speak fluently one of the prescribed foreign languages, and of making a careful estimate of personality and other qualifications which an appointee to the commercial attaché service should possess."¹

¹ A. L. BISHOP, in the *American Economic Review*, June, 1915, p. 298.

On January 1, 1923, commercial attachés were stationed at Berlin, Buenos Aires, London, Madrid, Paris, Peking, Rio de Janiero, Rome, Santiago, and Tokyo, and acting commercial attachés at Athens, Brussels, Bucharest, Havana, the Hague, Lima, and Warsaw, while foreign offices of the Bureau at Calcutta, Copenhagen, Harbin, Johannesburg, Manila, Melbourne, Mexico City, Prague, Riga, Shanghai, and Vienna were in charge of trade commissioners.

Organization of the Bureau at Washington. — The headquarters of the Bureau of Foreign and Domestic Commerce is maintained at Washington in charge of a director. Some thirty divisions have been set up within the Bureau, each headed by a chief. Of these divisions there are four groups each under the immediate supervision of an assistant director: (1) The *administrative divisions* comprise the office of administrative assistant, the editorial division, the division of correspondence and distribution, the foreign-service division (which has charge of the administrative end of the foreign service), and the district and coöperative offices of the bureau.

(2) The *technical divisions* are six in number: (a) The division of finance and investments furnishes reliable and impartial information regarding financial conditions in foreign countries to government executives, bank officials, companies interested in construction of public utilities, prospective purchasers of bonds, and others concerned with investments abroad. In this work, it is assisted by financial experts assigned to important foreign offices of the Bureau. (b) The foreign tariffs division studies changes in the commercial policies, tariffs, and other trade regulations of foreign countries and, through correspondence and publications, informs American exporters and producers concerning duties; consular and customs regulations; internal taxes and quality standards affecting imports; licenses and fees to which commercial travelers are

subject; provisions as to samples, advertising and preferential arrangements; import and export prohibitions and licensing systems; and other legislation affecting the marketing of American products abroad or the importation of raw materials for American industries. (c) The division of commercial laws performs somewhat similar services with respect to foreign laws governing the private relations and obligations of American and foreign merchants in their international dealings and laws affecting primarily the concern's general business as distinguished from charges and regulations affecting individual shipments of merchandise between countries. The work of this division includes compiling of digests of commercial laws of foreign countries; preparing reports on selected lines of legislation, such as insurance, bankruptcy, consignment, debt collection, and agency contracts; studying special problems such as methods of adjusting trade disputes and of determining liability of cargo carriers; and aiding business men by way of information and advice on difficult legal situations arising out of foreign commercial activities. (d) The research division prepares the Statistical Abstract of the United States and of Foreign Countries, renders statistical and expert services to the other divisions, and handles major research problems not falling within the scope of any one of the other divisions. (e) The statistical division compiles and prepares for publication tables of imports, exports, vessels entered and cleared, and other statistics of United States trade with foreign countries and with non-contiguous territories. With this division was consolidated, in 1923, the Bureau of Customs Statistics which is located in the New York customhouse. This Bureau, previously under the Treasury Department, receives from all ports of the nation statistical copies of import entries and export declarations, tabulates the data which they furnish, and transmits to Washington combined totals for all customs districts for use

in preparing published tables. (f) The commercial intelligence division keeps constantly up to date a World Trade Directory consisting of a file of sales-information reports covering all the leading business houses, manufacturers, and traders throughout the world. By means of mimeographed trade lists, detailed reports in response to specific requests, and personal use of files, business men secure information concerning prospective customers, desirable foreign agents, and other sorts of clients and correspondents.

(3) There are seventeen *commodity divisions* each of which is focused upon one of the following important industries of this country — agricultural implements, automotive products, boots and shoes, chemicals, coal, electrical equipment, foodstuffs, hides and leather, iron and steel, lumber, machinery, paper, petroleum, rubber products, specialities, textiles, and transportation and communication. These divisions are in charge of commodity or technical experts of thorough training and wide experience, chosen largely by national organizations or leading producers in the lines represented and having specialized knowledge of all phases of the industry. Each aims to keep in close touch with his industry in America, find out what sort of assistance will be most useful, advise as to problems which arise, give expert direction to investigations and services affecting the industry, make market studies as required, give prompt attention to strategic situations abroad, and handle foreign trade opportunities as quickly and efficiently as possible.

(4) Four *regional divisions* are also maintained — one each for Latin America, the Far East, Western Europe, and Eastern Europe and the Levant. These divisions supervise the informational work of the overseas force in their respective regions; keep informed as to financial, economic, and trade conditions present and prospective; disseminate this information through monographs, bulletins, monthly reviews and

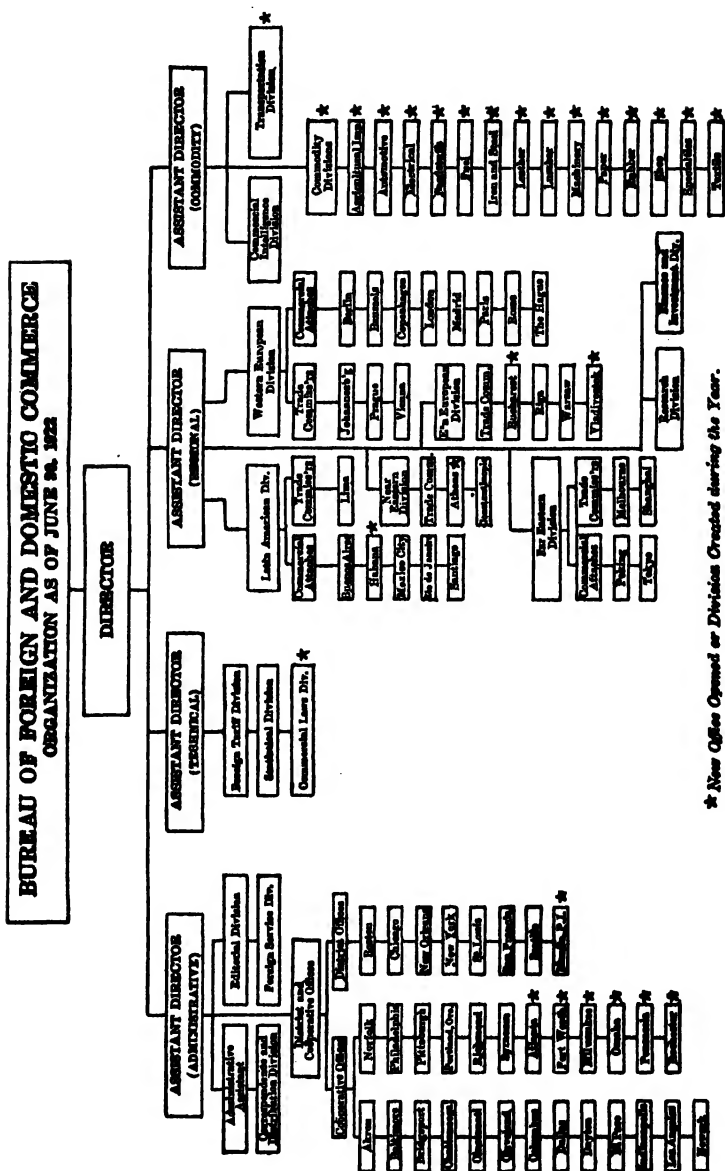
special articles in *Commerce Reports*, confidential circulars, correspondence, interviews, and addresses; and otherwise aid business men either directly or through coöperation with other divisions of the Bureau.

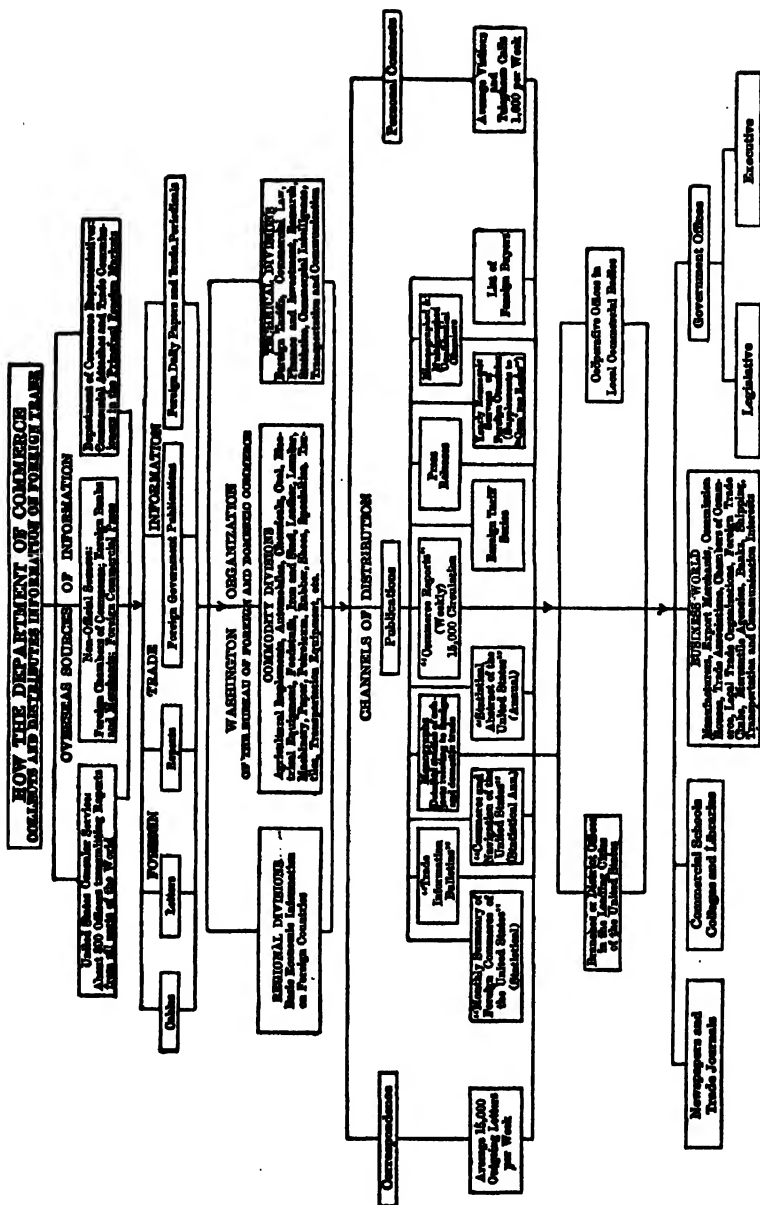
Publications of the Bureau. — This Bureau is preëminently the channel of government publication on commercial subjects. It provides the business, official, and educational world with varied literature ranging from slight pamphlets to pretentious monographs and bulky annual volumes. For example, it presents statistics of American exports and imports in the *Monthly Summary of Foreign Commerce*; with fuller analysis, in the annual volume *Foreign Commerce and Navigation*; and, in conjunction with other statistical data, in the *Statistical Abstract of the United States*. Among the most serviceable of the bureau's regular publications is a weekly magazine, *Commerce Reports*, containing the findings of the consuls and of the Bureau's field staff which are of most general and immediate interest to manufacturers and exporters, together with editorials and special articles. Sections of this magazine are devoted to surveys of economic conditions in the various world regions; specific information regarding leading commodities; reports on commercial laws and tariff changes; notices of foreign trade opportunities, consuls on leave in the United States, and trade lists available; and timely articles on miscellaneous subjects of trade interest. As supplements to *Commerce Reports* are issued Trade and Economic Reviews of Foreign Countries embodying the annual reports of American consular officers; monthly Surveys of Current Business; and frequent Trade Information Bulletins consisting of comparatively brief reports of investigations in selected fields. Other special publications in the form of circulars, bulletins, monographs, and commercial handbooks of foreign countries, appear in the *Special Agents Series*, in *Special Consular Reports*, in the *Miscellaneous Series*, in the

Foreign Tariff Series, and in the *Industrial Standards Series*. A *Foreign Tariff Annual* is issued embodying changes in the tariffs and related trade regulations during the preceding year. A catalogue of titles and prices of Bureau publications may be secured upon application. Great numbers of official trade reports and announcements of specific openings to sell American goods abroad reach American traders through mimeographed sheets sent to the daily and trade papers for simultaneous release, through confidential circulars, and through notices to those who have had their names placed on the Bureau's Exporters' Index.

District and Coöperative Offices. — In order to bring its work into more intimate touch with American business, the Bureau has also established *district offices* in some of the larger commercial centers having foreign-trade interests. These are in a sense miniatures of the office at Washington through which its publications and confidential information are made readily available; they are also headquarters for visiting foreigners and for government representatives on leave from service abroad. Each office is in charge of a manager who aims to mediate the entire service of the Bureau to the locality. His field is not limited to the immediate vicinity of the office, but covers a wide surrounding territory, often including several states. In a still larger number of cities somewhat similar work is done by *coöperative offices* which are in immediate charge of foreign trade committees of local chambers of commerce or other trade bodies but which are conducted under definite coöperative arrangements with the Bureau.

Recapitulation in Charts. — The organization and functioning of the Bureau of Foreign and Domestic Commerce are well summed up and visualized in the two official charts reprinted on pages 220 and 221.





The China Trade Act, 1922. — The China Trade Act was signed by President Harding, September 19, 1922. It aims to place American exporters more nearly on an equality with European and Japanese competitors in the development in China of markets for products of the United States. To this end, it authorizes the formation of District of Columbia corporations for the purpose of engaging in business in China. A majority of the incorporators must be citizens of the United States. The law is administered by the Secretary of Commerce who designates a registrar to be stationed in China to supervise the activities of these China trade companies. The distinct advantages of the law are (1) the prestige of federal incorporation as contrasted with the position of American companies heretofore operating in China under the laws of some one of our forty-eight states, and (2) exemption from income and excess profits tax of special dividends on business done wholly in China and paid to stockholders, American or Chinese, who are resident in China.

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CHAPTER XV

PUBLIC TRADE PROMOTING INSTITUTIONS

III. OTHER FEDERAL DEPARTMENTS AND AGENCIES

United States Treasury Department. — This department is charged with the management of the national finances and is therefore mainly responsible for the administration of the tariff since duties on imports constitute one of the sources of federal revenue. The part played by the collectors of customs and the local and general appraisers has been related. The Division of Customs is the prime agency through which the Secretary of the Treasury superintends the collection of import duties. Among other things, it is charged with the publication of decisions of the Treasury Department and the Board of General Appraisers, the preparation and promulgation of rules and regulations to govern the official action of customs officers, the ascertainment and establishment of rates of drawback and rebates, the determination of the fact of depreciation or appreciation of foreign currency, the supervision of the work of agents for the prevention and detection of frauds on the revenue and of smuggling of narcotics into the United States; the enforcement of the Prohibition Amendment so far as it relates to the importation and exportation of intoxicating liquor; and the regulation of the landing of passengers from abroad and the examination of their baggage. Concurrently with the Department of Commerce, the Division of Customs exercises jurisdiction over such matters as the entrance and clearance of vessels and the enforcement of the navigation laws.

The Customs Division also entertains (1) requests from customs officers for advice and instructions relative to current procedure, to the construction of statutes, and to matters arising under special conditions; (2) appeals against the collectors' assessment of duty upon passengers' baggage, household effects, tools of trade, etc.; (3) requests from societies for the free entry of articles under various special provisions of law; (4) applications for the release of seized goods, for the remission or mitigation of fines and penalties, and for relief from additional duties incurred by reason of undervaluation; (5) applications from the several executive departments for the free entry of articles imported by the United States and for the extension of courtesies to diplomatic and distinguished passengers on arrival, etc. The customs service, furthermore, assists the Department of Agriculture in the enforcement of the pure food laws and certain other regulatory measures for which Congress has made that Department primarily responsible.

The Treasury Department is necessarily a factor in all projects for the financing of foreign trade either directly by government loans or through machinery authorized and controlled by the government. The Secretary of the Treasury is, for example, *ex officio* the chairman of the board of directors of the War Finance Corporation, a war agency originally but in the post-war period a recognized channel through which the government has assisted in the financing of agricultural exports and of certain domestic agricultural undertakings; and the Secretary of the Treasury and the Comptroller of the Currency are, by virtue of their offices, members of the Federal Reserve Board with its broad powers of control over the nation's banking system.

Department of Agriculture. — In many countries agriculture is the very foundation of commercial prosperity. This is preëminently the case in the United States where good crops

are practically synonymous with good times. Anything, therefore, affecting the agricultural conditions of the country is of vital interest to the American people. The importance of agriculture to the foreign trade of the United States is shown by the fact that, in spite of increasing home consumption of domestic agricultural products and the remarkable growth in the value of exports of manufactures, nearly one-half the value of our total export trade consists of food products and crude materials for use in manufacturing.

The Secretary of Agriculture, among his various duties, exercises the following functions: advisory supervision over the expenditures of agricultural college and experiment station funds derived from the federal treasury; control of quarantine stations for imported cattle and of cattle-carrying vessels; supervision over the sanitary handling and control of hides, skins, other animal by-products, hay, forage, etc., offered for entry into the United States; direction of the inspection of domestic meats and meat-food products; inspection of other domestic and imported food products and drugs; regulation of importation of nursery stock and other plants and plant products; enforcement of laws prohibiting the importation of certain noxious birds and animals and adulterated or misbranded insecticides and fungicides; establishing of standards for the grading of certain agricultural products; and enforcement of the Packer and Stockyards Act designed to regulate interstate and foreign commerce in live stock, live-stock products, dairy products, poultry, poultry products and eggs, with a view to the prevention of unfair, discriminatory, or deceptive practices.

One of the most important branches of the Department, so far as foreign commerce is concerned, is the Bureau of Agricultural Economics. The work of this Bureau, which covers the whole economic field from farm to market, includes: an inspection service to determine the quality and condition

of fruits and vegetables when received at many of the principal producing and receiving centers of the country, and of butter at five of the principal terminal markets; issuance of reports showing the amount of certain food products in cold storage; conduct of a market news service, giving information as to the supply, commercial movement, disposition, and market prices of fruits, vegetables, live stock, meats, dairy and poultry products, hay, feed, and seed; regulation of trading in the future cotton exchanges, which is important in foreign trade since about two-thirds of the nation's cotton production is exported; supervision of the inspection of grain shipped or delivered for shipment in interstate or foreign commerce in order to assure the correct and uniform application of the official grain standards of the United States; inspection and licensing of warehouses for the storage of cotton, grains, flaxseed, wool, and tobacco under the United States warehouse act; and investigation of the costs of production and marketing, farm organization, farm financial relations, farm labor, agricultural history and geography, land economics, and the problems of rural life.

The Bureau also compiles, summarizes, analyzes, interprets, and publishes statistics of production and marketing of agricultural products in the United States and in foreign countries. The statistics from foreign countries are compiled largely from official publications of the several nations and from reports of the International Institute of Agriculture at Rome. This Institute transmits promptly reports which it receives from the several countries on estimates of production and on conditions of some of the most important crops and, by special arrangement, a few countries cable reports on certain crops direct to the Bureau. The reports of consular officers, commercial attachés, trade commissioners, also furnish information as to agricultural production and foreign market conditions. Crop prospects and market conditions

as reported from these various sources are summarized in a weekly periodical known as *Foreign Crops and Markets*, and also in the form of press releases and articles in *Weather Crops and Markets*, the statistical publication of the Department.

Special investigations into foreign competition in agricultural production and into the demand of foreign countries for agricultural products are also conducted. Representatives of the Department are stationed, or travel, in countries which compete with the United States in agricultural production and in countries which offer important markets for American farm products. One is stationed at London, keeping in touch with the conditions in British markets and collecting information relative to the agriculture of the British Empire. As illustrative of the work of other representatives may be noted reports on the live-stock industry in Argentina, its trend and probable future development; on agricultural reconstruction in the Danube countries and the prospect of their continued exportation of wheat to Western European markets; on markets for American meats and competitive production in England, Denmark, and Sweden; on the use of vegetable oils as affecting the German market for American meat and lard; on coöperation in the Scandinavian countries; and on an economic survey of agricultural reconstruction in Europe.

In short, the Department of Agriculture influences American international trade in at least four distinct ways: (1) by increasing the quantity and improving the quality of product through experimentation and education; (2) by safeguarding the home land against certain objectionable importations; (3) by facilitating sales abroad through inspection of certain food products and the establishment of standard grades for other commodities; and (4) by investigation and reports as to foreign marketing conditions and problems.

War Department. — While the War Department is not supposed to be actively engaged in promoting commercial

interests, it does in many ways have an important influence along these lines, especially through its Corps of Engineers and its Bureau of Insular Affairs. The former is charged, among other things, with river and harbor improvements, with military and geographical explorations and surveys, with the survey of lakes and with engineering work especially assigned to it by acts of Congress or orders of the Secretary of War. Among its conspicuous services have been the improvement of San Juan harbor and the construction of the Panama Canal.

To the Bureau of Insular Affairs, under the immediate direction of the Secretary of War, are assigned all matters pertaining to civil government in the island possessions of the United States subject to the jurisdiction of the War Department, the Philippine Islands and Porto Rico being the ones so subject at the present time. It gathers statistics of insular imports, exports, shipping and immigration; makes studies of questions relating to the finances, tariffs, navigation, and commercial and industrial possibilities of these islands; and submits such recommendations as may seem necessary. It also has immediate supervision of the Dominican receivership for the collection of customs revenues under the convention of February 8, 1907, and of the Haitian customs receivership under the treaty between the United States and Haiti proclaimed May 3, 1916.

The Post Office Department. — Modern commerce is vitally dependent upon prompt, sure, and cheap means of communication. Consequently the Post Office Department plays a major part in facilitating foreign trade. The Postmaster General has supervision over the postal service and is given wide discretion in its administration. In accordance with provisions of Congress, he enters into contracts with railroads, steamship companies, and other agencies for the transportation of mails; and, subject to the approval of the President,

he makes postal treaties with foreign governments. The Universal Postal Union was established in 1874 and a Universal Postal Congress is held at regular intervals, at which postal conventions are formulated. The Postal Union rates apply to mail sent from the United States to all foreign countries with which more favorable arrangements have not been made. Recent years have been marked by the extension of reciprocal agreements under which letters from one country to another will be handled at the domestic rate of the country of origin, and printed matter, commercial papers, and samples will be transmitted more cheaply and satisfactorily than formerly. In 1921, parcel post conventions were in effect between the United States and ninety-three countries.¹

The Federal Trade Commission. — By act of September 26, 1914, Congress created the Federal Trade Commission consisting of five members appointed by the President with the advice and consent of the Senate. This is a permanent and independent body, designed primarily to aid in restoring and maintaining fair competitive conditions in business subject to federal jurisdiction. Its work falls roughly into two divisions: (1) Prevention of unfair methods of competition in commerce, in accordance with the terms of the Federal Trade Commission Act which declares such methods unlawful, and (2) investigations as to the organization, business, conduct, practices, management, and relations of corporations (other than banks and common carriers) engaged in commerce and as to alleged or established violations of the anti-trust laws.

Aside from these functions relating chiefly to domestic problems but touching also indirectly foreign trade development, this commission is specifically empowered "to investigate, from time to time, trade conditions in and with foreign countries where associations, combinations, or practices of

¹ On postal, cable, and wireless communication in relation to foreign trade, see DE HAAS, Ch. 20.

manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the United States and to report to Congress thereon, with such recommendations as it deems advisable." Under this authorization, special attention has been given to industrial combinations and export and import combinations in foreign countries and to the investigation of complaints against American concerns charged with breach of contract, fraud, and other practices injurious to American foreign trade. The adjustment of such complaints goes far toward establishing confidence and good will in foreign markets.

In 1916, the Federal Trade Commission submitted to Congress an extended report on *Coöperation in American Export Trade*; and, in line with its recommendations, the Export Trade Act (Webb-Pomerene Law) was enacted in 1918. This act legalizes associations entered into for the sole purpose of engaging in export trade and exempts them from the anti-trust laws of the United States, provided these associations do not involve (a) restraint of the export trade of any domestic competitor; (b) enhancing or depression of prices within the United States; or (c) substantial lessening of competition within the United States. The primary purpose of the law is to assist American manufacturers large and small in securing markets and distributing goods through single selling agencies and thus to enable them to compete with other selling combinations. The same statute extends the prohibition of unfair methods so as to cover "unfair methods of competition used in export trade against competitors engaged in export trade even though the acts constituting such unfair methods are done without the territorial jurisdiction of the United States." The administration of the Export Trade Act is intrusted to the Federal Trade Commission, and on June 30, 1922, fifty-six associations, with a membership including about one thousand plants, were operating under this act.

The Federal Reserve Board. — By an act approved December 23, 1913, Congress made provision for the Federal Reserve System of the United States. In accordance with this law, there has been established in each of twelve districts a Federal Reserve Bank whose voting stockholders are the member banks of the district and over which the Federal Reserve Board at Washington has extremely broad powers of supervision and control. This board now (1923) consists of the Secretary of the Treasury as chairman, the Comptroller of the Currency, and six other members appointed by the President with the advice and consent of the Senate.

The primary purposes of the Federal Reserve Law were to effect nation-wide coöperation among commercial banking institutions and especially to provide for pooling of bank reserves, for greater elasticity of bank credit, for cheaper and more efficient clearing and collection of checks, and for better facilities for financing import and export trade. The features of the original law and of amendments to it which bear most directly upon foreign commerce are as follows: Subject to certain statutory limitations and to regulations of the Federal Reserve Board, (1) any member bank may accept bills of exchange drawn upon it which grow out of transactions involving importation or exportation of goods, or out of transactions involving domestic shipment of goods, provided shipping documents conveying or securing title are attached; or bills of exchange secured by warehouse receipts conveying or securing title covering readily marketable staples; or bills of exchange drawn by banks or bankers in foreign countries or in dependencies or insular possessions of the United States for the purpose of furnishing dollar exchange as required by the usages of trade in those countries or possessions; and (2) any Federal Reserve Bank may discount such acceptances and may buy or sell them in the open market, at home or abroad. With the consent or upon the direction and under the

regulations of the Federal Reserve Board, (3) any Federal Reserve Bank is empowered to maintain accounts, appoint correspondents, and establish agencies in foreign countries for the purchase, sale, or collection of bills of exchange (or acceptances) arising out of actual commercial transactions. With the permission of the Federal Reserve Board and subject to its regulations, (4) any national bank having a capital and surplus of at least one million dollars may establish branches in foreign countries or in dependencies or insular possessions of the United States, or (5) may invest an amount not exceeding ten per cent of its paid-in capital and surplus "in the stock of one or more banks or corporations chartered or incorporated under federal or state law and principally engaged in international or foreign banking, or banking in a dependency or insular possession of the United States." Finally (6) the so-called Edge Law, which constitutes Section 25 (a) of the amended Federal Reserve Act, specifically authorizes federal corporations "for the purpose of engaging in international or foreign banking or other international or foreign operations" and contains detailed provisions as to their organization and their powers both in the investment banking and in the commercial banking field. The organization and activities of such corporations are subject to the supervision and regulation of the Federal Reserve Board.

This Board also issues a monthly publication, the *Federal Reserve Bulletin*, intended primarily for the information of bankers, but containing much material bearing upon industry and trade, foreign as well as domestic. Especially significant in this connection are its monthly review of business and financial conditions abroad; indexes of foreign trade, of foreign exchange, of wholesale prices in leading countries, and of ocean freight rates; and an international price index designed to show the relative purchasing power of money in different countries.

International Agencies. — Many governments contribute to trade development, not only through the maintenance of such strictly national agencies as have just been considered, but through sharing in the support and conduct of certain international bureaus, commissions, and conferences. Among the international agencies in which the United States participates, a few may be singled out for special comment:

(a) *The Pan-American Union.* — A unique international institution is the Pan-American Union established in 1890 to develop "closer cultural, commercial and financial relations between the Republics of the American Continent and to promote friendly intercourse, peace, and closer understanding." It is maintained by the twenty-one American republics, each contributing to the budget in proportion to population. It is controlled by a governing board consisting of the Secretary of State of the United States and the diplomatic representatives at Washington of the other American governments. This board elects a director general and an assistant director general who administer the affairs of the Union, with aid of a staff including statisticians, commercial experts, editors, translators, compilers, and clerical assistants. Its work is fittingly housed and symbolized in the Pan-American Union building at Washington provided largely through the munificence of Andrew Carnegie. The Union serves as a bureau of information for the Western Hemisphere, as the agency of periodic Pan-American Conferences, and as a continuous medium for fostering inter-American interest and understanding. It publishes special reports and handbooks, and illustrated monthly Bulletins in English, in Spanish, and in Portuguese, setting forth conditions and developments, commercial and general, in the several republics. Thus, both directly and indirectly, it contributes much to the advancement of inter-American trade.

(b) *Inter-American High Commission.* — As the Pan-American Union grew out of the First Pan-American Conference in 1889-1890, so the Inter-American High Commission (originally called the International High Commission) grew out of the first Pan-American Financial Conference in 1915—a conference of finance ministers and commercial and financial leaders of the American republics to consider inter-American commercial and financial relations as affected by the European War. The Commission was devised in order to provide a permanent and effective organization for frequent consultation on certain commercial and financial matters calling for international coöperation. In each of the national sections provided for, are eminent jurists and financiers under the chairmanship of the minister of finance. Each section has its own secretariat, and meets in separate sessions upon call of the chairman: all the sections meet together from time to time as the majority may determine; the directive and coördinating body is a central executive council consisting of three officers of the United States section headed by the Secretary of the Treasury. The activities of the United States section are financed by Congressional appropriations.

In general the aims of the Commission have been to make effective the recommendations of the financial conferences, the second of which was held in 1920. It studies selected problems, formulates proposed solutions either by way of treaties or uniform legislation, and each section stimulates its own government to ratify conventions agreed upon and to enact suggested laws. Among the subjects taken up by the Commission have been (1) uniform measures as to bills of exchange, checks, bills of lading, warehouse receipts, consular certificates and invoices, port charges, customs regulations, commercial travelers, and foreign corporations; (2) international protection of trade-marks, patents, and copyrights; (3) lower rates of postage and better money-order

and parcel-post facilities; (4) arbitration for the adjustment of commercial disputes; (5) methods of avoiding double taxation of individuals and corporations as between American nations; and (6) the establishment of a gold clearance fund.

(c) *Other International Agencies.* — The United States is also a member of many other international organizations whose work bears more or less directly upon the development of trade. These include the Universal Postal Union; the International Union for the Protection of Industrial Property; the International Bureau of the Telegraphic Union at Berne; the International Bureau for Publication of Customs Tariffs at Brussels; the International Institute of Agriculture at Rome; the International Trademark Registration Bureau at Havana; etc. Most of these organizations rest upon treaties or conventions which have usually been formulated by international conferences or congresses.

Criticism of the Public Trade-promoting Institutions of the United States. — The trade-promoting activities of the United States government have come to cover a very wide range and have attained a high degree of efficiency. While not entirely beyond the reach of politics, appointments and promotions are based primarily upon merit. In recent years, the work has become more and more expert and specialized, more intensive in the foreign field, and practically serviceable to more and more lines of domestic interest. Appreciation of it has steadily grown in the minds of American business men, and favorable comment has come from various foreign observers. At the same time the shortcomings of our public trade promoting arrangements have been repeatedly emphasized both in official and in business circles. Two criticisms perhaps merit especial attention at this point:

(a) The scale of salaries is too low to attract and to hold a sufficient number of men of the superior qualifications which the service should command. Many young men of promise

do enter the various branches of the service, and some remain for long periods; but, as a career for those of large capacity but of small means, this work still offers inadequate rewards, especially in view of alternatives in the business world. This difficulty has long been recognized by students of the consular service. The Bureau of Foreign and Domestic Commerce likewise has been too largely a training school for men who later entered the employment of private business concerns. Such competition is inevitable and the government can hardly expect to meet it on even terms; nor is it clearly contrary to public policy for the government to contribute somewhat to the training of men for higher positions in business. At the same time it is important for the government to retain and capitalize accumulated experience as far as possible. A higher salary scale would doubtless help to reduce the turnover which is now excessive, both by lengthening the period of government work on the part of those who ultimately enter the field of private business and by encouraging an increasing number to look upon public service as a career. And with the question of salaries is intimately bound up the need of more adequate provision for travel allowances, housing, and other proper expenses incident to the various types of service in foreign countries.

(b) The trade-promoting work of the various departments and bureaus is not effectively coördinated. Even within the same department there are sometimes cleavages which militate against the highest efficiency; for example, the two branches of the Foreign Service (the Diplomatic and the Consular), both of which are engaged in commercial as well as political work, should, in the words of Secretary Hughes, "be drawn together and treated as an interchangeable unit"; but proposed legislation authorizing such flexibility has thus far failed of enactment. More than this, there are about a dozen departments, commissions, and other governmental agencies

each charged with certain duties affecting foreign commerce, and each free to act more or less independently, without legal obligation to inform the others as to plans or activities. There is a lack of centralization, of system, or of coördination except as secured through voluntary action of responsible heads of these several agencies. This may well prove an insufficient safeguard in view of personal or departmental ambitions or jealousies. In 1919, at the suggestion of the Secretary of State, an Economic Liaison Committee was instituted, consisting of a representative of each department, board, and commission dealing directly or indirectly with questions of foreign trade — these representatives holding weekly meetings with a view to obviating duplication of effort, expediting the handling of matters calling for interdepartmental consultation, and harmonizing and integrating the work of these various governmental agencies.

Some more formal and assured means of correlation would seem clearly desirable. Various plans of reorganization have been proposed, among others the linking of the numerous boards and commissions whose work vitally touches trade matters, to the Department of Commerce by providing for a representative of that department in each of these agencies. But such a plan would not afford a basis for adjusting the relations between the Department of Commerce and the Department of State — a problem by no means easy of solution. As Secretary Redfield observed in 1919: "There is a 'no man's land' wherein the diplomatic field runs parallel with the commercial, and the commercial field touches closely upon the diplomatic. It will probably always be necessary to maintain a species of joint endeavor between the two departments." The respective fields can hardly be nicely delimited by law, and the possibility of duplication of effort is perhaps inescapable. Britain attempted to meet a somewhat parallel situation through the creation in 1917 of a Department of

Overseas Trade under the joint control of the Foreign Office and the Board of Trade, to which were transferred in 1919 the Consular and Commercial Departments of the Foreign Office. The joint control of the new department was intrusted to an interdepartmental committee of which the head of the Board of Trade was made chairman. This whole matter is but one phase of the larger problem of correlation and reorganization of all the administrative agencies of our federal government.

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SUGGESTIVE TOPICS AND QUESTIONS

1. What is the cost of the consular service of the United States? Of the trade-promoting activities of the Department of Commerce? *Bulletin of Pan-American Union*, October, 1922, p. 180; *Annual Reports of Secretary of Commerce*.

2. Summarize the various criticisms of our federal trade-promoting service. Which of these criticisms seem most valid? What suggestions for its improvement strike you as most practicable? *Annals*, March, 1921, pp. 110-114; *Proc. of Am. Acad. of Pol. Sci.*, February, 1921, pp. 159-166; Report of Secretary of Commerce, 1919, pp. 204-208; *Am. Jour. Int. Law*, July, 1922, pp. 362-364; *Am. Pol. Sci. Review*, November, 1922, pp. 600-612; WILLOUGHBY; DE HAAS, 75-83.

3. What are some of the most noteworthy steps taken by other nations since the World War for the strengthening of their trade-promotion services? DE HAAS, 77-84; FRIEDMAN, *American Problems of Reconstruction*, 279-303; FRIEDMAN, *International Commerce and Reconstruction*, 168-171, 213-217, 248-254, 272-276; *Pol. Sci. Quar.*, June, 1921,

pp. 211 *et seq.*; *University Journal of Business*, November, 1922, pp. 69-81; *Commerce Reports*, September 21, 1919, pp. 1650-1652.

4. Write a brief review of a recent number of *Commerce Reports*.

5. By means of the latest annual report of the Secretary of Commerce, trace the year's activities of the commercial attachés, the trade commissioners, and the various Divisions of the Bureau of Foreign and Domestic Commerce.

6. Prepare a report of the year's work of the nearest District Office of the Bureau of Foreign and Domestic Commerce; of the nearest "coöperative branch" of the Bureau.

7. Show how the Department of Agriculture coöperates with other departments in the administration of regulatory laws affecting foreign commerce. WANLASS, *The U. S. Department of Agriculture*, 51-53, 82-85, 88-89.

8. Just how do the Meat Inspection Act, the Food and Drugs Act, and the Cotton Futures Act facilitate foreign trade? Does the government in any of these measures guarantee the quality or the quantity of the goods? Should the government guarantee quality or quantity? WANLASS, 73-78; *U. S. Stat. at Large*, 34: 768, 1256; 37: 416, 732; 39: 446; *Jour. Pol. Econ.*, 23: 465; *Am. Econ. Rev.*, 5: 1.

CHAPTER XVI

QUASI-PUBLIC AND PRIVATE TRADE PROMOTING INSTITUTIONS

General. — Besides the governmental trade-promoting agencies already considered there are various other institutions of a private or quasi-public character which have as an aim the advancement of foreign commerce and commercial relations. Classification of such agencies is by no means a simple matter, but among them may be distinguished: (1) commercial museums and export sample warehouses; (2) chambers of commerce, which in the leading European countries are semi-official bodies commonly federated into regional or national organizations; (3) general federations whose members are firms or associations in various industrial and commercial lines and whose activities include stimulation of both foreign trade and domestic production — outstanding examples are the Federation of British Industries, *Reichsverband der Deutschen Industrie*, and the French *Association National d'Expansion Economique*; (4) general or national associations formed to promote the interests of some particular industry or trade, such as the Association of German Iron and Steel Manufacturers, the Association of German Machine-tool Manufacturers, and similar associations in France, England, and other countries; (5) bodies for the promotion of commercial relations between the home country and particular foreign countries or regions, as illustrated by the German-Argentinian Association, the Anglo-Danubian Association, and the Canadian Association of British Manufacturers, all

of which have been formed since the World War; (6) industrial combinations organized primarily for domestic trade, but more or less active also in foreign markets; (7) combinations formed primarily or exclusively with a view to more effective exporting; (8) banks and other institutions concerned with the financing of foreign trade; and (9) various business organizations which shade off quite imperceptibly into agencies belonging rather to the technique than to the politics of foreign trade.

Commercial Museums and Bureaus of Information. — A commercial museum, in its restricted sense, is a depository in which are found samples of commercial products from different parts of the world, arranged geographically, with reference to their degree of manufacture, alphabetically, or in some other manner which meets the convenience of merchants and aids them in furthering their foreign trade relations. Since, however, the information conveyed by mere samples is entirely inadequate for the practical use of merchants, the scope of many commercial museums has been greatly extended by the addition of various bureaus which give information to the exporter regarding general or special trade conditions, customs duties and regulations, freight rates, credit of individual firms, etc. in particular countries. The enormous expense involved in the collection, storage, maintenance, and keeping up to date of samples of commercial products has caused this feature of the work to be minimized and emphasis to be laid upon the collecting and imparting of commercial information. In fact, many institutions of this kind have given up the first-named function.

Commercial museums on an enlarged plan have been organized since 1890 in several European countries, in Japan, in Latin America, and in the United States. The Commercial Museum of Tokio, for example, with which are allied smaller museums in other cities, is one of the most important media for the trade-promotion work of the Japanese Department of

Agriculture and Commerce. These museums have received special emphasis because of Japanese effort to manufacture exclusively for export many articles heretofore quite unfamiliar to home producers and still without demand in the home market.

The Philadelphia Commercial Museum. — The most important institution of this kind in the United States, and probably the largest one in the world, is the Philadelphia Commercial Museum, which has served as a prototype for similar museums abroad. It owes its existence largely to the untiring energy and perseverance of its director, Mr. William P. Wilson. It was created in 1894 by act of the Pennsylvania legislature and by ordinance of the Councils of the City of Philadelphia, and has since been supported by municipal and state appropriations, by membership subscriptions, by occasional federal grants, and by gifts, especially of exhibits from various expositions, beginning with the World's Columbian Exposition in 1893. The government of the museum is administered by a board of trustees of whom a part are state and city officials serving as ex-officio members, and a majority are appointed to serve without remuneration.

This museum was a pioneer in America in the awakening of public appreciation of the importance of foreign trade, in the promotion of international commercial congresses, in the building up of a great collection of the world's raw materials, and in the providing of a clearing-house of information in regard to questions relating to export trade. Its principal purpose is to assist American manufacturers and merchants in securing foreign markets, in forming connections abroad, and in putting foreign buyers in touch with American sellers. These services are rendered primarily through its Foreign Trade Bureau, which is supported largely by fees paid by manufacturers according to the nature and extent of services rendered to them. They may secure through this Bureau

assistance of various sorts including (a) lists of foreign importers, dealers, and large consumers together with their reputed commercial standing; (b) advice on such subjects as packing, shipping, registration of trade-marks, trade statistics, foreign corporation and tax laws; (c) reports as to inquiries from foreigners desiring to purchase American goods; (d) advice as to the establishment of foreign agencies and assistance in securing reliable agents; (e) translation of business correspondence, etc. The museum has one of the most complete commercial libraries and collections of commercial samples in the world. It welcomes foreign business men who visit this country and maintains an exhibition of samples of American-made products for their convenience. It issues (a) a *Weekly Export Bulletin* containing letters from foreign importers desiring to buy American products, current information as to customs changes, mail regulations, and other governmental action affecting trade, and prepared articles on international conditions and the business outlook in various countries, and schedules of mail and freight sailings; (b) a monthly publication in English and in Spanish called *Commercial America*, for the guidance of both the American exporter and the foreign buyer of American products; and (c) occasional trade reports, statistical data, charts, etc. The trade service of the Museum is nation-wide, not merely local. Its work along lines of commercial education is, in the nature of the case, more localized; it includes study of the series of exhibits, special lectures to classes from the schools and colleges of Philadelphia and vicinity, free loans of slides, lanterns, and screen or typewritten lectures to public school teachers in all parts of Pennsylvania, and free gifts to Pennsylvania's public schools of large collections of specimens as an aid to geographic and commercial instruction.¹

¹ For trade-promoting work of commercial museums, expositions, fairs, and exhibits, see DE HAAS, Chs. 6 and 7.

Export Sample Warehouses. — Export sample warehouses are warehouses containing samples of domestic goods. They may be located either at home or abroad but differ from commercial museums in that the collections of the latter consist more particularly of foreign samples. The general purposes of both institutions are, however, the same — the extension of foreign markets, but their point of departure is different. Commercial museums serve, in the first instance, domestic producers by showing them what articles must be manufactured and how they must be prepared in order to meet the needs and tastes of foreign purchasers, while export sample warehouses are institutions which are primarily concerned with foreign consumers since they make them acquainted with domestic goods and seek to arrange commercial connections between them and home merchants and manufacturers. These organizations, therefore, not only serve as advertisers but also frequently undertake the rôle of agents, since orders are often accepted by them and the goods delivered through their intermediation.

The first export sample warehouse was organized in Stuttgart in 1881. It soon established branches in other cities of Germany and in foreign countries, especially in the Levant. Similar institutions have been organized in other domestic and foreign trade centers under German management, the one at Berlin, founded in 1897, combining the features of a sample warehouse and information bureau. Other European countries have followed Germany's example.

As a device for bringing American products to the attention of foreign purchasers, export sample warehouses seem to have been very little employed. Two were established at Caracas and Shanghai many years ago under the auspices of the National Association of Manufacturers of the United States, but both have long since been given up. More recently numerous individuals and organizations have contemplated

somewhat similar projects, but usually upon investigation or trial they have come to regard such warehouses as a comparatively ineffective means of developing foreign trade. International competition is generally so intense that the personal visits of experienced commercial travelers with attractive samples and favorable credit conditions produce more practical results.

The International Chamber of Commerce. — The International Chamber of Commerce was created at Paris in 1920 and held its first general meeting at London the following year. It is the successor of the International Congress of Chambers of Commerce which met biennially from 1906 to 1914. The new organization differs from the old, however, in that it is permanent and functions continuously. Headquarters have been set up at Paris, with a general secretary, a staff of experts, and an administrative commissioner from each of the nations represented in the International Chamber; and a national bureau is to be maintained in each of these countries, the American bureau being in the office of the Chamber of Commerce of the United States at Washington. This international chamber is in no sense representative of governments or governmental offices; it is a business men's organization. It affords a medium through which the business men of the various nations may be kept constantly in touch with international affairs. Its chief functions are to consider laws and regulations in different countries affecting commerce; to suggest modifications which will facilitate international dealings; to gather and distribute information necessary to the better conduct of commerce; to effect reforms in business customs and practices both on their own initiative and through appeal to governments; and through personal acquaintanceships to develop mutual understanding and establish confidence. Decisions of the Chamber may be reached either at the general biennial conference or by referenda. "The

Chamber has already taken steps to correct the evils of trademark piracy, to standardize documents and laws affecting commerce, to unify customs regulations and standardize the nomenclature in customs tariffs of the world. . . . A research department has also been organized to collect, analyze, and interpret statistical information for the business interests of the world." In 1922 this Chamber perfected plans for the establishment of an international court for the settlement of commercial disputes between nationals of different countries. This court is independent of all agencies established by governments; it includes an international executive committee headed by the president of the Dutch Chamber of Commerce and a national section for each country represented. Through these, arbitrators are assigned to cases submitted for adjustment.¹

The Chamber of Commerce of the United States. — For many years there was lacking in the United States that close coördination of governmental and private effort which has contributed so greatly to the effectiveness of trade promotion by Europeans. With this fact in mind, the Secretary of Commerce and Labor in 1912 invited the commercial organizations of the country to send representatives to a conference at Washington, which resulted in the formation of the Chamber of Commerce of the United States of America. This Chamber does not have the official character common to most corresponding bodies in other countries; but it is designed to serve primarily as a clearing house for business opinion, and to coördinate official and private activities for commercial advance both domestic and foreign. It is thoroughly representative, as its membership is open to all commercial or manufacturers' associations not organized for private purposes, and to persons, firms, or corporations holding membership in these constituent associations. Some twelve hundred organi-

¹ *Annals*, 94: 128-130.

zations are now affiliated with it, representing perhaps a million people.

The activities of the Chamber cover a wide range, including industrial production, domestic distribution, finance, transportation, insurance, and civic development, as well as foreign trade. But its contributions to the promotion of foreign commerce are especially noteworthy. It keeps in touch with all government offices dealing with foreign trade matters and aims to follow all government policies and activities affecting business relations with any foreign people. Its conventions give a large place to foreign trade problems; and, through referenda, it gives influential expression to the sentiment of its membership respecting proposed or pending legislation. "Furthermore when opportunity develops for an agency representing the commercial interest of the whole country to act for the advancement of international commercial relations, the Chamber proceeds immediately, sometimes obtaining valuable publicity in foreign countries for fair presentation of American interests and characteristics whenever misrepresentations have been circulated, sometimes acting as intermediary to present to foreign governments suggestions which will facilitate reciprocal trade, taking up with commercial organizations in foreign countries questions about which there may be coöperation among chambers of commerce, encouraging the organization of American chambers of commerce in foreign countries, etc." For example, the Chamber assisted in effecting arrangements for the arbitration of commercial disputes between business houses in the United States and in Latin America. It was also instrumental in the formation of the International Chamber of Commerce. At the same time, it provides a service of information to its members, arranging for the visits of foreign business men and of government officers returning from service abroad, issuing a monthly magazine called *The Nation's Business* and bulletins relating

to federal legislation and government publications, regulations and orders affecting foreign business, and answering inquiries either directly or by reference to the proper public or private sources.¹

American Chambers of Commerce in Foreign Countries. — Home business men often establish chambers of commerce in important commercial centers of foreign countries where they are living temporarily or have business relations. Usually these are voluntary associations supported by membership subscriptions, but in some instances financial support is given them by the home government. The French government, for example, contributes slightly to the support of French chambers of commerce in foreign countries, which are numerous and which have played an important part in the trade-promoting activities of the nation. These are really official bodies submitting reports for the benefit of the Foreign Office and the National Office of Foreign Commerce as well as for the benefit of domestic chambers of commerce and of individual business men in France. The British government has also encouraged the formation of British chambers of commerce abroad; such organizations are now found in many lands, but they are essentially private in character.

The first American chamber of commerce in a foreign country was founded in Liverpool in 1801. The number has increased rapidly in recent years, and in 1921 included chambers in London, Paris, Milan, Naples, Brussels, Barcelona, Constantinople; Shanghai, Peking, Harbin, Hankow, Tientsin, and Changsha; Buenos Aires, Rio de Janeiro, São Paulo, Santos, Pernambuco, Valparaiso, La Paz; Barranquilla, Mexico City, Tampico, Monterey; Havana, Manila, and Johannesburg. The period immediately following the World War has been marked by a great revival of American interest in this form of trade-promoting institution.

¹ *Annals*, 94: 114-118.

While modeled after similar institutions at home, their organization and methods are adapted to meet local conditions. Membership is sometimes limited to American individuals and firms, resident and non-resident; and is sometimes open to citizens and firms of other nationalities with certain restrictions as to office holding. The more efficient chambers employ a competent paid secretary and a clerical staff; occasionally the American attaché acts as consulting director. Local consular officers are also likely to be actively interested; they have taken the initiative in the organization of many of the chambers now in operation. The majority of these bodies are members of the Chamber of Commerce of the United States.

The services of American chambers of commerce in foreign countries may be roughly classified under two heads: (1) general service rendered to American business as a whole "by upholding in foreign countries the highest standards of American commercial practice, by bringing about a solidarity of American interests and promoting their development, by representing to foreign peoples the views and aims of American business men, and by interpreting the foreign point of view to the American business public"; (2) specific local services rendered primarily, though not solely, to members of the chamber. These may include information as to trade statistics, customs duties, transportation routes, rates of exchange, regulations as to patents, trade-marks, commercial travelers, etc.; credit reports; desirable agents and connections; assistance to American salesmen visiting the community and to foreign business men planning trips to America; facilities for business conferences; reference libraries; adjustment of trade disputes; and issuance of periodical publications.

Local Chambers of Commerce in the Home Country. — In different countries there is a large number of local trade

associations, such as boards of trade or chambers of commerce, whose activities are more or less directed toward the development of foreign trade. In continental Europe these commonly have an official character, while in England and United States they are free associations. When located in large commercial centers, they are largely engaged in promoting the interests of foreign commerce; in inland cities they are primarily interested in domestic problems. Even in these inland centers, however, American chambers are notably increasing their attention to the international field. More and more of them have foreign trade departments which make available for members reference works, current periodical literature, directories, and special services to exporters; hold foreign trade conventions; carry publicity for their cities into foreign markets; and keep in close touch with the work of the government and of various national trade bodies. Some are recognized as coöperative offices of the Bureau of Foreign and Domestic Commerce. Their work is informational, educational, and promotive.¹

The National Foreign Trade Council. — Early in 1914 was organized the National Foreign Trade Council. It now consists of seventy-five members each of whom is an officer or influential figure in some important American industrial, financial, commercial, or transportation organization. These members are to represent, not the companies with which they are identified, but the various sections of the country and various business elements which have an interest in foreign trade. The council grew out of a national foreign trade convention held at Washington representing these several interests. Unlike the Chamber of Commerce of the United States, it Concerns itself exclusively with foreign commerce; and the initiative in its formation came, not from the government, but from business organizations.

¹ For trade-promoting work of chambers of commerce, see DE HAAS, Ch. 5.

It was not designed to perform direct service to exporters; its functions are regarded as educational, investigatory, and advisory. It aims to educate the country at large to the need of foreign trade; to investigate foreign trade problems; to formulate policies and to bring them effectively to the attention of the people and of the government. It holds a National Foreign Trade Convention each year and publishes the proceedings which constitute a useful volume of current information and opinion; and it issues occasional monographs and pamphlets on selected topics. Among the subjects to which it has given special attention may be mentioned education for foreign trade; support and improvement of the trade services of the Departments of State and Commerce; standardization of practices and documents; development of an adequate American system of communications including cables, wireless, and postal; legalizing of combinations for export trade; provision for long-term credits and for foreign loans; a bargaining tariff system; upbuilding of an American merchant marine; and the coördination of the foreign trade activities of the whole country. It has recently organized a Trade Adviser Service, through which those desiring to enter foreign trade and those already engaged in it may secure the benefit of "the experience and opinions of those more familiar than themselves with the particular problems under consideration."

Other Nation-wide Associations in the United States.—Four other associations of national scope merit special notice both because they have played a large part in the promotion of foreign trade and because they typify different bases of organization:

(a) *The National Association of Manufacturers of the United States* embraces in its membership manufacturers of a wide range of products in all parts of the nation. It was established in 1895 for the encouragement of domestic industry and of

foreign trade. Since that time, it has done much, first, to stimulate interest in foreign markets for American manufactures by sending commissioners to study trade possibilities in many lands, and by giving wide publicity to their findings; and, second, to assist exporting manufacturers and merchants through the Association's Foreign Trade Department. This Department is divided into three territorial divisions — the Latin-American, the Far Eastern, and the Russian — and several bureaus — translation, credit information, trademarks, compilations, and general information — each in expert hands, and kept in touch with all parts of the commercial world through thousands of correspondents. The Association publishes a monthly magazine for circulation in the United States, devoted in part to foreign commerce; four monthly magazines printed respectively in English, Spanish, French, and Portuguese, for circulation in foreign countries; a periodical volume in six languages giving importers and dealers abroad information regarding American manufacturers of various kinds of products; a confidential bulletin twice a month, bringing to the attention of export managers the wants of reputable business men abroad; and other miscellaneous bulletins, pamphlets, and exhibits. It has also been active in the establishing of sample warehouses abroad, the organizing of conferences and conventions, the entertainment of visiting business men and officials, and especially in direct correspondence with American producers and foreign firms seeking connection with them.

(b) *The American Manufacturers Export Association* is a non-profit, coöperative organization incorporated in 1911 to foster and promote business and commercial relations between American manufacturers and foreign nations. It maintains an office at Washington which keeps in close touch with American official representatives, chambers of commerce, and other commercial bodies in foreign countries; affords its members

information and assistance as to foreign collections, shipping arrangements, credit information, translations, selection of agents and representatives, etc.; holds monthly and annual conferences for discussion of international trade problems; publishes monthly and weekly bulletins of trade information and expert opinion; and contributes to the promotion of general American foreign trade interests, as evidenced by its part in the formation of the National Foreign Trade Council.

(c) *The American Exporters and Importers Association* was formed in 1907 for the promotion of foreign commerce and the solution of related business problems. It has given attention, among other things, to the adjustment of relations between exporting interests and manufacturers and of freight rate difficulties affecting competition in overseas markets.

(d) *The Tanners Council of the United States of America* is perhaps the best American example of an association representing a single industry which has been especially influential in the export field. It was formed upon the entrance of the United States into the World War to assist the government in controlling the production of leather and regulating trade in tanning materials. It has become the one permanent national organization of the tanning industry. It employs an expert staff and maintains a Foreign Trade Bureau. This Bureau coöperates with the government agencies, bringing the results of government work promptly to the attention of the tanning interests and suggesting ways in which the government may serve those trade interests. It serves the tanners also by conducting independent investigations, opening connections with foreign markets, furnishing the latest information from all sources, and publishing handbooks of the industry and a journal, *American Leather*, in English, Spanish, and French for distribution abroad through consuls, chambers of commerce, banks, leather associations, and customers.

Banks as Trade Promoters. — Not only are banks an essential factor in the conduct of international dealings, but they have also played an important part in promoting the development of foreign commerce in the great active trading nations of our time. The exact nature of their services has varied in different countries, reaching perhaps the widest range in Imperial Germany. In the United States certain metropolitan banks have been keenly alive to foreign trade possibilities, effective in awakening intelligent interest in the subject, prompt to utilize the provisions of Federal Reserve legislation favorable to overseas trade and investment, and liberal and resourceful in developing special services for clients and others looking to the foreign field.

One of these banks, for example, (a) maintains a foreign trade department with a staff of experts for the intensive study of commerce and industry in various countries and of American products which are actual or potential exports; (b) conducts branch banks in numerous foreign centers, each with a special trade representative to watch and report upon trade conditions, regulations, and practices as well as business opportunities within his district; (c) disseminates, through published bulletins, correspondence, and interviews, timely information on such subjects as general economic conditions, credit standing of American and foreign firms, customs regulations abroad, demand for particular commodities, technical problems as to documentation, packing, organizing export departments; and (d) in many ways assists in bringing seller and buyer together and contributes to the success of American ventures in international trading. It has also given many young men training for banking and commercial service.

Concluding Comments. — From the foregoing sections it is apparent that there is no dearth of private organization and activity in behalf of American foreign trade. The agencies characterized above by no means exhaust the list; but they are

either commanding institutions or outstanding types. The survey suggests the multiplicity of forces engaged and the vast amount of work being done. It suggests also overlapping and duplication of effort because of lack of coördination.

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SUGGESTIVE QUESTIONS AND TOPICS

1. Why are private agencies necessary to supplement Government trade-promoting activities? DE HAAS, 55-56.
2. Classify the private and semi-public trade associations in Germany and point out the relation of each to the development of foreign trade. SNOW, *German Foreign Trade Organization*, 67-92; TOSDAL, "Foreign Trade Organization in Europe," *Annals*, 94: 100-107; HAUSER, 72-96; *Selling in Foreign Markets*, Bureau of Foreign and Domestic Commerce, *Misc. Series*, No. 81, pp. 369-385.
3. Outline the British service for trade promotion and information. *Proceedings, Am. Acad. of Pol. Sci.*, 9: 147-158; WILLOUGHBY, *Reorganization of Adm. Branch*, 190-194; *Univ. Jour. of Business*, 1: 69-81.
4. To what extent have "trusts" been a factor in promoting American export trade? JONES, *Trust Problem*. (See index under "export trade.")
5. Prepare a report on the Webb-Pomerene law; its purpose, its provisions, its working. HOLT, *Federal Trade Commission*, 14-16, 30-31, 61-63; Federal Trade Commission Report on Cooperation in American Export Trade; *Jour. Pol. Econ.*, 25: 313-338; "Webb Law, Its Scope and Operation," *Ibid.*, July, 1919; JONES, E., "The Webb-Pomerene Act," *Ibid.*, November, 1920; *Annals*, 94: 130-132; VEDDER, *American Methods in Foreign Trade*, 16-22; NOTZ AND HARVEY, *American Foreign Trade*.
6. Write a review of the proceedings of a recent National Foreign Trade Convention held under auspices of the National Foreign Trade Council; or a meeting of the International Chamber of Commerce; or of some other important body which emphasizes foreign trade.
7. Prepare a report on training for foreign trade. For bibliography, see TOSDAL, *Problems in Export Sales Management*, pp. 391-392.

CHAPTER XVII

PUBLIC NAVIGATION PROMOTING INSTITUTIONS

General. — In previous chapters reference has been made to certain public trade-promoting institutions which are to be found, with variations to meet local conditions, in the national administration of all civilized governments. Likewise there are certain administrative and executive offices in modern states which have for their primary purpose the regulation and development of shipping interests. In the United States most of these offices or institutions are a part either of the Department of Commerce or of the Treasury Department. Under the former may be mentioned the Bureau of Navigation, the Steamboat-inspection Service, the Bureau of Lighthouses, and the Coast and Geodetic Survey; and in connection with the Treasury Department, in addition to important services rendered shipping interests by customs officials and treasury agents, some reference should be made to the part played in this field by the United States Public Health Service and the Coast Guard.

Bureau of Navigation. — The Bureau of Navigation was established under the Treasury Department in 1884 and was transferred to the Department of Commerce and Labor upon the organization of the latter in 1903. When this department was divided in 1913, the Bureau of Navigation became a part of the Department of Commerce. It has general supervision over the merchant marine and merchant seamen of the United States, except in so far as special lines of work are assigned to the Steamboat-inspection Service and the Public Health Service; but, for the actual enforcement of

measures for which it is responsible, it depends very largely upon the coöperation of other agencies, especially the customs officers and the Coast Guard. The Bureau of Navigation is specially charged with the decision of questions relating to the registry, enrollment, and licensing of vessels, and the filing of these documents; with the supervision of laws relating to the admeasurement, letters and numbers of vessels; and with the final decision of questions concerning the collection and refund of tonnage taxes. It may change the names of vessels and must prepare an annual list of them. It renders each year a report to the Secretary of Commerce upon the operation of all laws relating to navigation. Every four years the Commissioner of Navigation also compiles and issues a copy of all the laws administered by the Bureau, to which a supplement is added annually upon the adjournment of Congress.

Furthermore, the Bureau has supervision over the Shipping Commissioners, who are stationed at all the principal American ports. Their duties are to supervise the shipping articles or contracts between seamen and masters regarding wages, description of voyage, and term of service. They also enforce the laws for the protection and relief of seamen in matters such as the provisions of vessels, damages for unjust treatment, discipline and punishment of mutiny, and other crimes. At the smaller ports, the duties of shipping commissioners are performed by customs officers.

Within the Bureau of Navigation also is the radio service for the enforcement of the acts of Congress and of the International Convention concerning apparatus and operators for radio communication on ocean steamers and at coast stations. The functions of this service are to inspect apparatus, license stations and operators, and assist in securing improvements in equipment and in standards of operation.

Steamboat-inspection Service. — The United States government provided for the inspection of steamboats as early

as 1839. The service was reorganized by an act of 1852 and placed under the general direction of the Secretary of the Treasury. It was transferred in 1903 to the new Department of Commerce and Labor, and ten years later to the Department of Commerce. This service is charged with the duty of inspecting steam vessels and the licensing of ship officers, and has general administration of the laws relating to vessels and their officers as far as they have to do with the protection of life and property. At the head of the service is the supervising inspector general; under him are eleven supervising inspectors, each of whom has control over local inspectors within an assigned district. Besides, there is a corps of assistant inspectors and four traveling inspectors. The supervising inspector general and the supervising inspectors constitute a board which meets annually at Washington and establishes regulations for carrying out the provisions of the laws respecting steamboat inspection, disciplining officers, and other matters falling within the jurisdiction of this service.

Bureau of Lighthouses. — This branch of the national administration was organized in 1789; but the scheme of organization has changed several times since that date. The administrative duties of the Lighthouse Service include the construction and maintenance of lighthouses, light vessels, lighthouse depots, beacons, fog signals, buoys, and other aids to navigation on the coasts of the United States, as well as the preservation of all records and property appertaining to the lighthouse establishment. As now constituted the Service is directed by the Bureau of Lighthouses established in 1910. This is a bureau in the Department of Commerce headed by the Commissioner of Lighthouses, and including an engineering construction division, a naval construction division, a hydrographic division, and a general office force. Outside Washington, the service is divided into nineteen districts

each in charge of a lighthouse inspector with a central office, and each having one or more lighthouse depots for the storing and distribution of supplies and apparatus, and a technical force for the construction and upkeep of land structures and floating equipment. All positions are governed by the civil service rules, and appointments and promotions are on a merit basis. The report for 1921 showed a total personnel of about six thousand and a total of about sixteen thousand aids to navigation in operation.

Coast and Geodetic Survey. — The origin of the Survey dates from a recommendation of President Jefferson in 1807, its scientific organization from 1832, and its present name from 1878. It was transferred from the Treasury Department to the Department of Commerce and Labor in 1903, and since 1913 has been a Bureau in the Department of Commerce. As now organized the general management is in the hands of a superintendent with numerous assistants. The Bureau is charged with the survey of the coasts of the United States, and its work includes base measure, triangulation, topography and hydrography, the survey of rivers to the head of tide-water or ship navigation, deep-sea soundings, temperature and current observations along the coast and throughout the Gulf and Japan streams, magnetic observations and researches, gravity research, determination of heights, the determination of geographic positions by astronomic observations for latitude, longitude, and azimuth, and by triangulation to furnish reference points for state surveys. The publications of the Survey comprise annual reports, charts upon various scales, including sailing charts of the coasts and harbors, tide tables issued annually in advance, sailing directions covering all navigable waters, etc.

United States Public Health Service. — The United States Public Health Service is a bureau in the Treasury Department in direct charge of the Surgeon General. It owes its origin

to an act of Congress in 1798 authorizing a marine hospital service for the care of sick and disabled seamen of the American merchant marine. By successive enactments, the functions of the Service have been increased until they cover a wide range. They include management of marine hospitals and relief stations for patients of the merchant marine, coast guard, and other federal beneficiaries; supervision of the national quarantine stations at American ports and of quarantine enforcement at certain consulates abroad; medical inspection of immigrants; investigation and other measures for the suppression of epidemics and plagues; the collection and dissemination of mortality statistics and sanitary information; scientific studies of the diseases of man and other public health problems; and a continuous campaign of public health education. The marine hospitals are located in all important internal and external ports of the United States, including the ports of its insular possessions. The number of these institutions and the volume of hospital work were enormously increased by virtue of the disabilities among the soldiers, sailors, and marines in the World War.

United States Coast Guard. — By an act of Congress passed in 1915, the former Revenue Cutter Service and the former Life-saving Service were combined to form the Coast Guard. It constitutes a part of the military forces of the United States, but it operates under the Treasury Department in time of peace and as a part of the Navy in time of war. Its headquarters is at Washington, and the chief officer is the commandant, selected from the line officers of the service, appointed by the President, confirmed by the Senate, and under the immediate supervision of an Assistant Secretary of the Treasury. Under the commandant is an authorized commissioned personnel of 270 officers trained at the Coast Guard Academy and a total authorized force of 5474.

As the successor of the Life-saving Service, the Coast

Guard is concerned with the saving of life and property along our shores. The coast line is divided into districts, each under an experienced superintendent who selects keepers for all stations in his district and is responsible for their efficiency. These two hundred stations are located at selected points of danger to shipping and vary somewhat in character according to their environment and the nature of the service demanded of them.

As the successor of the Revenue Cutter Service, the duties of the Coast Guard consist primarily in the enforcement of statutes relating to national maritime interests, either independently or in coöperation with the Department of Commerce and other agencies. It is to protect the customs revenue; it is to enforce, not only the laws against smuggling, but those relating to national quarantine, neutrality, navigation, life-saving appliances on merchant vessels, suppression of piracy, robbery, and mutiny on merchant vessels, protection of seal fisheries, illegal traffic in firearms, suppression of the slave-trade, and the protection of wrecked property and timber reserves of the United States. During dangerous and inclement weather Coast Guard cutters are required to cruise along the coasts and render assistance to vessels in distress; and, during the season of iceberg hazards, they are employed as the American quota in the international ice patrol provided for by several nations under the International Convention for the Safety of Life at Sea, signed in 1914. The Coast Guard operates more than a hundred vessels of various types — cruising cutters, inshore patrol cutters, harbor cutters, harbor launches, and station ships — for the performance of these duties and the rendering of emergency service at the call of any department having “special work of a maritime nature for which no other vessels are especially maintained.”

Other Public Agencies. — While a comprehensive treatment of all the organs of government touching in some way

the maritime interests of the nation would be impracticable in this volume, two additional ones seem to call for at least passing notice. The principal duties of the *Weather Bureau* in the Department of Agriculture are to forecast weather conditions; to issue and display weather and storm warnings for the benefit of agriculture, commerce, and navigation; and to study and observe various climatic conditions in order that dependable records may be kept. A glance at the various bureaus of the *Navy Department* suggests the many services which it renders the navigation and commercial interests of the country. Not only does the Navy exert a far-reaching influence through the protection which it affords these interests in peace and war; but the department is constantly contributing to the safety of navigation through the publication of astronomical information for the guidance of vessels, the investigation of navigation instruments, the fixing of standard time and differences of longitude, the issuing of nautical charts and sailing directions, and the furnishing of other timely information and warnings either by periodical bulletin or by radio message to be picked up by mariners at sea.

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C. JONES, *Navigation Laws — A Comparative Study of Laws of U. S., Great Britain, Germany, Norway, France, and Japan* (Special Agents Series, No. 114); *Publications of the Institute for Government Research* include monographs on "Bureau of Navigation," "Coast and Geodetic Survey," "Steamboat-inspection Service," "Public Health Service," and "Weather Bureau" (The Johns Hopkins Press).

Official pamphlets entitled: *Functions, Duties, Organisation, and Equipment of the U. S. Coast Guard*, 1921; the *U. S. Coast and Geo-*

detic Survey, Description of its Work, Methods, and Organization; U. S. Lighthouse Service; Evolution and Organization of the Public Health Service (in *Public Health Reports*, May 27, 1921, Vol. 36, pp. 1165-1176) — all of which are obtainable from the bureaus dealt with.

SUGGESTIVE TOPICS AND QUESTIONS

1. What are the chief provisions of Federal legislation concerning radio communication, which have a special bearing upon ocean navigation? The outstanding features of the International Radio Telegraphic Convention? *Radio Communication Laws of U. S.*, issued by the Bureau of Navigation; for criticism of radio regulations, see *Annual Report of Secretary of Commerce*, 1921, pp. 140-142.

CHAPTER XVIII

NAVIGATION POLITICS

General. — Navigation is defined as “the science or art of directing the course of vessels as they sail from one part of the world to another.” It is really a branch of the more general subject of “Transportation and Communication,” and in its restricted sense is an important instrument of commerce. From its political side it is so interwoven with the general development of commerce that some writers refer to it as a branch of the general subject of commercial politics. Navigation politics may be defined as state regulation which has for its principal purpose the development of the national shipping interests. These regulations may affect primarily domestic or foreign commerce. Only in so far as they affect the latter may they be considered a part of international commercial politics.

Modern navigation politics has been active in three directions : (1) in the maintenance, on the part of certain nations, of jurisdiction over certain portions of the sea (*Mare Clausum*) ; (2) in the development of the general principle of “freedom of navigation,” or right of all nations to unrestricted passage over the high seas ; and (3) in the national protection of shipping industries against foreign competition (*Navigation Laws*).

Mare Clausum. — The conditions of the ancient world rendered the high seas “open to all for depredation,” but during the Middle Ages and the early modern period the maritime powers of Europe asserted sovereignty over certain portions

of the high seas. England, for example, claimed dominion over the Channel, the North Sea, the seas westward from Ireland, the Bay of Biscay and the ocean north of Scotland; Denmark and Sweden divided the control over the Baltic, and Venice maintained sovereignty over the Adriatic. The growth of commerce after the discoveries, coupled with the exorbitant Portuguese and Spanish claims of sovereignty over nearly all the high seas, led to a reaction against the principle of *Mare Clausum* which found classic literary expression in 1609 in Grotius' great work. England's persistence in her claims of sovereignty over surrounding waters was the cause of much international warfare, especially with the Dutch. Her insistence on the right of search was the nominal cause of the War of 1812. Partly through insensible abandonment and partly because it has been proved that maritime occupation must be effective in order to be valid, the doctrine of *Mare Clausum* has been curtailed to the maintenance of sovereignty over deeply indented bays or other waters whose natural situation admits of national control. Modern international law generally recognizes national sovereign rights over the high seas to a distance of one league from shore; but the practical effect of this principle has been largely nullified in recent years by the increased range of weapons of war.

Freedom of Navigation. — The right of unrestricted passage over the high seas is now universally recognized. Its growth has abridged the principle of *Mare Clausum* and the latter tends to grow less important in proportion as the former is emphasized. While the principle of free navigation of the oceans and large seas was recognized comparatively early, the growth of the principle as applied to straits, inland seas, and navigable rivers was slower. There has been much international controversy regarding the straits leading into the Baltic and Black seas. Denmark long claimed control over the former, but these claims were satisfied in 1857 by a stipu-

lated payment by the maritime powers of the world. As regards the Black Sea, it was Turkish waters until Russia's acquisition of the Northern coast. By the treaty of Adrianople (1829) entrance through the Bosphorus was allowed the merchant vessels of Russia and the Powers friendly to her. The Black Sea was neutralized by the Treaty of Paris (1856); in 1871 Russia secured the right of maintaining a fleet in it, but her warships were debarred from passing the Bosphorus. Where a navigable river divides two countries, the use of such a river is guaranteed to both countries, and the boundary line is held to run along the middle of the stream. Where navigable rivers rise in one territory and discharge through another territory, international law does not admit the moral claim sometimes asserted by the upper state to navigate to the mouth. Yet most of such rivers of Christian countries have been opened to world commerce by international agreements. The United States has figured prominently in the opening up and the neutralization of the great rivers and canals of the world. This phase of her commercial politics has already been amply discussed in one of the chapters on Commercial Treaties.

Navigation Laws.—The third way in which navigation politics has been, and in many instances still is, active is that of national protection of shipping industries against foreign shipping by means of so-called navigation laws. Such regulations and restrictions were characteristic of the period following the great discoveries and may be regarded as one phase of the application of the principles of Mercantilism. These laws have to do largely with such matters as defining the nationality of vessels, the manner of their registration, and in general the privileges which domestic vessels may lay claim to as well as the conditions controlling the participation of foreign ships in the national trade. In efforts to secure for domestic shipping advantages over foreign shipping,

two general policies have been employed — the policy of *exclusion* and the policy of *discrimination*. By the former plan, particular branches or lines of navigation or particular classes of merchandise are reserved exclusively for domestic ships. This policy was first developed in the Italian city republics and in the Hanseatic League and was the characteristic feature of the English navigation policy down to the middle of the nineteenth century. By the policy of discrimination, foreign ships are allowed to participate in the trade of a country ; but they are subjected to tonnage dues, and customs duties are levied on their cargoes — burdens from which domestic ships and their cargoes are wholly or partially exempt. This was the characteristic feature of the early American and Prussian navigation policy, while the German Imperial policy as regards navigation became essentially one of free trade with the exception of its coasting trade. The French policy has been varied. During the Revolutionary period (1793–1816), it was essentially a policy of exclusion ; before 1793 and from 1816 to 1872, one essentially of discrimination with exclusion as a supplementary policy ; and since, it has involved extra duties on imports received indirectly, but no discrimination against imports in foreign vessels.

English Navigation Policy. — While the first English navigation act dates from the time of Richard II (1381), English navigation politics did not become important until the middle of the seventeenth century, when England had become a great colonial power and was attempting to capture the domestic and foreign carrying trade from other nations, especially from Holland, which at that time was the greatest maritime nation of Europe. The most important English legislation along navigation lines were the laws of 1651, 1660 (“ First Navigation Act ”), and 1663 (“ Second Navigation Act ”). The chief provisions of these laws were the following: (1) the restriction of the coasting trade to English ves-

sels, such a law having been enacted in 1563 and remained in force until 1854; (2) the levying of discriminating (double) duties on the products of foreign fisheries; (3) prohibition against foreigners becoming merchants or factors in the Plantations; (4) the restriction of the foreign commerce of the colonies to national ships with English commanders and with crews three fourths of which must be English; (5) the confining of importations from European countries of certain "enumerated goods" to English ships or to ships owned where the goods were produced or forwarded; and (6) prohibition of the importation into England of goods grown, produced, or manufactured in Africa, Asia, or America, except in English vessels having officers and a majority of the crew English. The attempt to enforce these regulations was one of the main causes of several European wars. Although modified from time to time, they remained in force substantially unchanged for nearly two centuries, being greatly altered in 1825 and for the most part repealed in 1849.

Navigation Policy of the United States. — The navigation policy of the United States has been considered in more or less detail in different parts of the present volume dealing with the subjects of reciprocity, the policy of protection and differential duties. Brief repetitions may not, however, be out of place in the present connection. The beginnings of the American navigation policy, as expressed in the early treaties of commerce and navigation, were on the basis of "the most perfect equality and reciprocity"; but, after a critical period of several years following the recognition of American independence, during which the new nation suffered not only from interstate discriminations, but also from the exclusion navigation policy of Great Britain, the Constitution was adopted which gave the federal government ample power in matters of commerce and navigation. The United States embarked at once upon a severely discriminating navi-

gation policy. The law of 1789 placed a tonnage duty of six cents per ton on vessels built, owned, and manned by Americans, while vessels built in the United States, but owned and manned by foreigners, paid a duty of thirty cents per ton, which was raised to fifty cents per ton in the case of vessels built abroad and owned and manned by foreigners. Ten per cent reduction was allowed from the regular tariff duties if goods were imported in American vessels. This law was changed in 1794 to an extra duty of ten per cent on importations in foreign vessels. As to the coasting trade, the law of 1789 provided that American vessels should pay the tonnage tax only once a year, while foreign vessels should pay it upon every entrance in an American port. This virtual exclusion of foreign vessels from American coastwise trade was replaced, a few years later, by an absolute exclusion.

The registry law of 1789 provided that only vessels built in the United States, belonging to American citizens and having an American master, should be deemed ships of the United States and entitled to the benefits of American navigation laws.

These various laws formed the foundation of the navigation policy of the United States. During the early part of the nineteenth century, the American government placed more and more restrictions on foreign vessels and their cargoes, owing largely to the hostile legislation enacted by certain European countries, especially by England. As has been stated, the first modification came about 1815 in the way of reciprocity for direct trade, and about ten years later reciprocity was extended to indirect trade with certain countries. From 1830 to 1860, a more liberal policy was pursued; but about the latter date, the change from wooden sailing vessels to iron steamships, the depression in freight rates, and more lucrative opportunity of investing American capital in other directions caused a rapid decline in American shipping interests. The move-

ment was also accentuated by the Civil War with the attendant depredations on American commerce. Non-discriminating tonnage duties were reenacted during the war, but were considerably modified by the laws of 1884 and 1886, already referred to. Various measures have been proposed or adopted since the Civil War for the purpose of resuscitating the American merchant marine. A discussion of these measures brings us to a consideration of the general subject of steamship subsidies.

Forms of Direct Aid to Shipping. — At one time or another, every nation of importance has taken steps to assure itself of some measure of maritime independence. Such government aids to national shipping may take any one of several forms; but these may be roughly classified under two main heads — direct and indirect. Direct payments are commonly spoken of rather loosely as subsidies; they embrace at least two quite distinct types, with numerous variations as to detail. (1) They may take the form of *subventions*, or payments (often liberal) conditioned upon the performance of certain specified services for the state, as carrying the mail between designated ports; or (2) they may take the form of *bounties*, or grants “made without any requirement of special service to the government.” (a) These may be *construction bounties*, so much being paid per ton for sailing vessels built and so much for steamships; or they may be (b) general *navigation bounties*, paid to all shipowners who comply with standards set and usually amounting to so much per gross ton per mile run. Payments are sometimes made in lump sums and sometimes in annual, monthly, or other periodic installments. Postal subventions represent an older and more general type of direct aid than bounties. They are usually conditioned upon (1) regular voyages, generally monthly or bi-monthly, or a certain number per annum; (2) a minimum speed of vessels, usually stipulating for a certain number of miles per

hour; (3) certain requirements in the way of construction and equipment of vessels; (4) the use, whenever possible, of domestic materials in building vessels; and (5) the right of appropriation in times of war upon remunerating vessel owners. The purposes of mail subventions are primarily to assure fast mail service on regular routes and schedules, and commonly also to maintain fast communication between the mother country and her colonies, provide auxiliary cruisers and transports in time of war, and foster domestic shipbuilding.

Direct Aid in Foreign Countries. — Bounties were paid as early as 1730 on English vessels engaged in the fisheries, the avowed purpose being primarily political — the training of mariners for the British navy. These bounties were modified from time to time and were finally repealed in 1867. Toward the middle of the nineteenth century, the growth of English foreign trade and the political and economic necessity of better means of transportation and communication between England and her widely scattered colonial possessions, caused the British government to give pecuniary aid for the development of her steamship service. Moreover, England and the United States were then keen rivals on the seas, and fast steam navigation was an infant industry — a candidate for protection; so, just on the eve of her repeal of the restrictive features of her trade and navigation laws, England entered upon a policy of shipping subventions which she has continued ever since. In 1837 a mail contract was made with the Peninsular Company, and similar contracts soon followed with the Cunard Line, the Royal Mail Packet Company, and the Pacific Steam Navigation Company. All these companies are still recipients of government grants, as are several other transportation corporations. In these contracts has been a subsidy element, since the amounts paid have often been largely in excess of regular postal rates. But the British government has not granted construction bounties or

general navigation bounties, and has extended no direct financial aid to cargo or freight steamers. Direct aid to shipping has taken the forms of postal subventions, admiralty subventions, and colonial subventions, and has been given for the most part to fast mail steamships between the mother country and her colonies. At least ninety-five per cent of the tonnage under the British flag is not operated under these subsidizing contracts. Several British possessions contribute to some subventions granted by the mother country, and some of the self-governing colonies have entered into postal subvention contracts through their own governments. Government ownership and operation of ocean shipping obtains to some extent in Australia and Canada.

Direct financial aid to German shipping began in 1886. It was limited, however, to subventions in favor of two steamship companies — the North German Lloyd and the German East Africa — for specified mail service chiefly to Asia, Australia, and East Africa. These subventions are clearly minor factors in the explanation of the rapid growth of the Empire's shipping which was favored by economic conditions, indirect government assistance, and general export trade policy. Postal and colonial subventions have also constituted the prevailing form of direct aid to Dutch shipping, while payments to selected companies for maintaining designated routes have been characteristic of the policy of the Scandinavian countries.

No nation has made wider or more persistent application of government aid to her merchant marine than has France. The first postal subvention contract was approved in 1851; and, from that time to the present, numerous contracts have been in force for carrying mails to various ports in Asia, Africa, Australia, Latin America, England, and the United States and assuring communication with French overseas possessions. Besides, France was a pioneer in the development

of a general bounty system designed to encourage both shipping and shipbuilding. The first legislation along this line was enacted in 1881 with a view to checking the decline of the French merchant marine which had been marked since the steamship had gained ascendancy in ocean navigation. Through subsequent legislation, this system of construction bounties, repair and equipment bounties, and general navigation bounties has been elaborated, the requirements of the government growing steadily more rigorous and its payments larger. The policies of France have been paralleled to some extent in Austria, Hungary, Italy, and Japan; but in no country has a comprehensive bounty system been followed by a notable development of the merchant marine, with the exception of Japan, where the inauguration of the policy synchronized with a great industrial and commercial awakening. In the other cases, government aid has been largely neutralized by unfavorable economic factors.

Indirect Aid to Shipping in Foreign Countries. — The term "indirect aid" covers a wide range of governmental measures which encourage shipping but which ordinarily do not involve direct payments out of the public treasury. Under this heading may be noted: (1) restriction of coastwise trade to ships flying the national flag — a practice which has been followed, for example, by France, Italy, Austria-Hungary, Spain, Belgium, Russia, and Japan, while the British imperial coasting trade has been open without discrimination since 1850 and Germany admitted ships of nations granting reciprocal treatment; (2) exemption from import duties on shipbuilding materials has long been the policy of Great Britain, Germany, the Netherlands, and Belgium; and equivalent concessions in the form of drawbacks have prevailed in the Scandinavian countries; while France, Italy, and Spain have maintained import duties on these materials even though bounties must be paid to domestic shipbuilders to offset the added cost;

(3) the "free ship" policy, or the admission of foreign-built vessels to national registry, was adopted by Great Britain in 1849 and has been pursued for a long period by most important foreign nations; (4) preferential railway rates on exports with still lower rates on goods carried by specified steamship lines have formed a part of the German and French systems; (5) reimbursement of port dues, paid by subsidized or other selected vessels, has been a distinctive feature of Danish and Belgian practice; (6) reimbursement of canal dues was inaugurated by Russia in 1879, and has since been practiced to a limited degree by Austria, Sweden, Italy, and France; (7) exemption of certain vessels from income or trade taxes, for example, in Austria after 1890 and in Hungary after 1893; (8) government loans to shipowners for construction purposes. Such loans were first made in Austria in 1891 and in later years in Great Britain, Sweden, Russia, Belgium, and France.

Early American Grants of Direct Aid. — The United States began the policy of direct aid to shipping in 1845 by an act authorizing the Postmaster General to make contracts for carrying foreign mails in American ships. A line to Bremen was established by virtue of this act two years later. The act of 1847 required the Secretary of the Navy to arrange for American ships to carry mail from New York to Liverpool, the West Indies, and Gulf ports and from Panama up the Pacific coast. From these contracts there arose the Collins line, the Pacific Mail Steamship Company, and some minor lines. In 1852 the Collins subsidy was increased from \$385,000 to \$858,000 per annum. The governmental requirement was generally for a certain number of trips per year. Competition between the Collins and Cunard lines was severe and caused a lowering of rates. In the struggle the Collins line at first more than held its own, but the loss of its best steamers, the *Arctic* (1854) and *Pacific* (1856), coupled with a

reduction of the government subvention to \$385,000 in 1856, and the total abolition of all contracts for carrying mail two years later, caused the failure of this important American line. At the outbreak of the Civil War all American lines to Europe were withdrawn.

The government paid no further subventions until 1866 when \$250,000 was given annually for a line between New York and Rio Janeiro, and in the following year \$500,000 per year was voted to the Pacific Mail Steamship Company for a monthly service to Japan and China via Hawaii. In both cases the ships were to be American built, under naval supervision, and subject to requisition in time of war. In 1873 a bill authorizing the payment of an additional \$500,000 to the Pacific Mail Steamship Company for double service passed Congress, but the company never received this sum, owing to the disclosure of the fact that it had used money to influence legislation and because it failed to comply with all imposed conditions. In 1875 the Brazilian and Pacific mail subvention contracts expired and were not renewed.

Although in 1879 an effort was again made to secure aid for the Brazilian line, it was not until 1891 that further subsidy measures succeeded in passing Congress. The Collins line had cost the American government \$15,000,000 and the Pacific Mail Steamship Company \$4,500,000. The net result of this early legislation was the establishment of an American line of American-built ships in the trans-pacific trade which continued its operations without subventions from 1878 to 1915.

Ocean Mail Act of 1891. — By the act of 1891 mail subventions on a mileage basis were to be paid as follows: for first-class steamers (iron or steel screw steamships of at least 8000 tons registry and capable of maintaining a speed of twenty knots an hour), \$4 per mile; second-class steamers (iron or steel steamships of at least 5000 tons and capable of main-

taining a speed of at least sixteen knots an hour), \$2 per mile; third-class steamers (iron or steel steamships of at least 2500 tons and capable of maintaining a speed of fourteen knots an hour), \$1 per mile; and fourth-class steamers (iron, steel, or wooden steamships of at least 1500 tons and a minimum of twelve knots per hour), 66 $\frac{2}{3}$ cents per mile.

Vessels were to be American built, owned and officered by American citizens, and manned to a certain minimum percentage with American citizens. Those of the first three classes were to be so constructed as to meet the approval of the Navy as prospective auxiliaries and cruisers and to be subject to requisition at their fair value.

None but ships of the first class were eligible to carry mails between the United States and Great Britain, and such ships were forthcoming only after the changing of the registry laws of the United States in 1892, whereby two foreign-built vessels, the *City of Paris* and the *City of New York*, owned by the International Navigation Company, largely an American concern, were admitted to American registry upon the agreement of the company to have two similar ships built in American shipyards. Ocean-mail contracts for ships of the second, third, and fourth classes were made with several lines running to Central and South American ports and to Eastern Asia, but in all cases such contracts were formed with lines already existing.

While, according to Marvin, this legislation was of unquestionable value in improving the character of the American fleet, it clearly fell far short of the predictions of its sponsors, that it would restore the prestige of American shipping. It is still in force; but "developments in shipbuilding and ocean transportation during the past third of a century have so changed conditions that the act is of no considerable present service, and during the past fiscal year (1922) only four mail routes were maintained under its provisions." Payments on

these contracts aggregated about \$300,000, while the year's total cost of carrying American ocean mails was approximately \$5,500,000. "The ocean transportation of the great volume of American mails for foreign countries is paid for according to the weight carried, American steamers receiving 80 cents a pound for letters and post cards and 8 cents a pound for other articles, while foreign steamers are paid under the international postal rates 4 francs per kilo (reckoned as equivalent during the past fiscal year to 35 cents a pound) for letters and post cards and 50 centimes per kilo (four and a half cents a pound) for other articles."

The most noteworthy modifications of the policy of 1891 are found in (a) an act of 1917 authorizing the Postmaster General to contract for the operation of fast mail ships between the United States and Great Britain and to pay them at rates not exceeding \$8 per mile for each outward voyage, the vessels operating under such contracts to have a gross tonnage of at least 35,000 and a speed of not less than 30 knots per hour; and (b) the Merchant Marine Act of 1920 authorizing the Postmaster General "notwithstanding the act of 1891" to contract "within the limits of appropriations made therefor by Congress" for carrying of ocean mails over such lines and at such prices as he and the Shipping Board may agree upon (Sections 7 and 24).

The Panama Canal Act and the Free Ship Policy.—For many years following the act of 1891, agitation for further direct aid to American shipping was persistent. The war with Spain, the new insular possessions, the reawakened interest in the Navy, the digging of the Panama Canal, and the growing interest in foreign markets for American manufactures, gave special impetus to this agitation in the early years of the new century. In successive Congresses measures were introduced providing for subsidies and subventions of various sorts. Typical of these was the Gallinger Bill of

1905, based upon the majority report of the Merchant Marine Commission of 1904, providing for a general bounty to all American shipping which conformed to specified requirements and a special subvention to steamers running to various Latin-American, South African, and Asiatic points. Owing, however, to prejudice against anything which smacked of subsidy, to preference in certain quarters for indirect aid, and to insufficient enthusiasm over American shipping, none of these proposals secured the approval of both houses of Congress.¹

Events proved that the next governmental action in behalf of our merchant marine was to take the form of indirect aid. Despite the tradition of a century, a "free ship" policy was adopted. The first step was taken in the Panama Canal Act of 1912, which provided that foreign-built vessels, American-owned, and not more than five years old, might be admitted to American registry for trade with foreign countries and with the Philippines, Guam, and Tutuila, and might be granted mail contracts under the act of 1891. On August 18, 1914, the five-year age limit was removed. As a war measure, Congress, on October 6, 1917, opened the coastwise trade to ships qualified for the foreign trade under the act of 1914; but under the Merchant Marine Act of 1920 the coasting trade is restricted to American-built ships and to ships acquired by or from the United States Shipping Board.

The limited "free-ship" provision of 1912 failed to attract foreign-built steamships prior to the outbreak of the war in Europe. Under the more liberal provisions of 1914, a large foreign-built tonnage was added to American registry, consisting for the most part of the property of American citizens previously under foreign flags and seeking greater security under the American flag during the period of the neutrality of the United States. The "free-ship" policy has, how-

¹ For details concerning these various measures, see Keller, *American Shipping*, 132-138, and Bacon, *Manual of Ship Subsidies*, 86-96.

ever, still to demonstrate that it can make any great contribution toward the permanent upbuilding of American shipping. Moreover, it is consistently opposed by those who stress the importance of maintaining American shipyards.

The United States Shipping Act of 1916. — Congressional investigations in regard to shipping conferences had emphasized the need for regulation of ocean carriers, and the war in Europe brought home to the American business world the disadvantage of dependence upon the ships of belligerent nations. Essential lines of trade and communication were disturbed, freight rates became prohibitive, and cargo space unavailable. Diverse proposals were advanced for the rapid development of shipping under the American flag. Subsidies would not prove effective under existing freight rate conditions and overcontracted shipyards, and were not likely to be adopted by the party in power, long committed to opposition to them. The effect of "free-ship" legislation was soon counteracted by laws and decrees of foreign nations forbidding sale of their merchant vessels during the war. The Wilson administration decided in favor of building and purchasing ships to be owned by the government, and, after long controversy, this policy was embodied in the Shipping Act of September 7, 1916.

The purpose of this law was twofold: to regulate carriers by water in interstate and foreign commerce and to develop a naval auxiliary and naval reserve and a merchant marine adequate to the needs of our insular and foreign trade. The United States Shipping Board was created, consisting of five members named by the President and approved by the Senate and invested with large powers: (1) it was given regulative control over the port-to-port business of carriers by water similar to that of the Interstate Commerce Commission over inland transportation; (2) it was charged with the investigation of the relative cost of building merchant vessels in

the United States and other countries, the comparative advantages of operating under American or foreign registry, the rules under which vessels are constructed in the United States and abroad, marine insurance, domestic and foreign methods of classifying and rating vessels, navigation laws and regulations, and the legal status of mortgage loans on vessels; (3) it was empowered to have constructed and equipped or to "purchase, lease, or charter vessels suitable, as far as the commercial requirements of the United States marine trade may permit, for use as naval auxiliaries or army transports, or other naval and military purposes"; (4) the President was authorized to transfer to the Board such vessels of the War or Navy Department as are suitable for commercial uses and not required for military or naval use in time of peace, and to cause to be transferred to the Board vessels owned by the Panama Railroad Company and not required in its business; (5) the Board was empowered, with the approval of the President, to charter, lease, or sell to any citizen of the United States any vessel so purchased, constructed, or transferred; (6) it was also authorized to form under the laws of the District of Columbia one or more corporations for the purchase, construction, equipment, lease, charter, maintenance, and operation of merchant vessels in the commerce of the United States. The capital stock of such corporations was not to exceed \$50,000,000, of which the United States through the Board was to purchase and vote not less than a majority. Under the terms outlined above, the United States Shipping Board Emergency Fleet Corporation was organized April 16, 1917.

After the United States entered the war, the government undertook the colossal task of securing a merchant fleet commensurate with the unprecedented emergency need. Under the shipping act, greatly reënforced by extraordinary legislation, the Shipping Board acquired a vast tonnage, at first by requisitioning ships already under construction in American

yards, seizing enemy ships in our ports, commandeering certain neutral ships, and chartering ships from other foreign powers, but later and in the main by unparalleled development of American shipbuilding. Construction continued long after the armistice, and the entire enterprise involved an expenditure of three or four billion dollars. By 1920 the American fleet had risen from insignificant proportions to a size second only to that of Great Britain, and about two thirds of the total tonnage was owned and controlled by the government through the Shipping Board. With this magical transformation had come new pride and interest in our overseas shipping and new aspects of the question of merchant marine policy. The problem now was so to dispose of government-owned ships and so to shape legislation as to assure to the United States a permanent place of importance in overseas shipping.

The Merchant Marine Act of 1920. — The Jones Act, approved June 5, 1920, declared that it was "necessary for the national defense and for the proper growth of its foreign and domestic commerce that the United States shall have a merchant marine of the best equipped and most suitable types of vessels sufficient to carry the greater portion of its commerce and serve as a naval or military auxiliary in time of war or national emergency, ultimately to be owned and operated privately by citizens of the United States" and that it was "the policy of the United States to do whatever may be necessary to develop and encourage the maintenance of such a merchant marine."

With a view to the attainment of this object, (1) the Shipping Board was increased to seven members at a salary of \$12,000 each, was intrusted with all vessels and related properties acquired by the government under war legislation, and was given a fairly free hand as to the sale of them and as to the determination and operation of lines deemed essential

to the development of foreign and coastwise trade and the provision of postal service; (2) a loan fund was authorized to give financial encouragement to the building of approved types of ships; (3) American-built vessels of approved types were granted partial exemption from excess and war profits taxes; (4) provision was made for the extension of our coastwise laws to all our insular possessions when adequate American steamship service to them should be established; (5) as far as practicable, all United States mails were to be carried on ships of American registry; (6) preferential railway rates on imports or exports were to be limited to goods carried in American ships, provided suitable American shipping facilities to and from the points involved were available; (7) the President was directed to give notice of the termination of such articles or provisions of existing treaties as restricted the imposition of discriminating customs duties on imports brought in foreign ships and of discriminating tonnage duties on foreign ships entering our ports; (8) and provisions were enacted in regard to ship mortgages, marine insurance, and classification of vessels owned by the government — all of which are calculated to encourage investment in American shipping.

The outstanding characteristic of this law is its emphasis upon indirect aid and upon discrimination as means of conserving and upbuilding the merchant marine, though the free hand given the Shipping Board and the Postmaster General in the matter of mail contracts implies also the possibility of postal subvention.

Proposed Legislation of 1922. — It soon became apparent that the law of 1920 would not bring the government-owned fleet promptly into the hands of private owners nor assure to American registry a merchant marine carrying the desired percentage of American foreign trade. Upon the urgent recommendation of the Shipping Board and of President Harding, a supplementary measure was introduced simultaneously

in both houses of Congress which is popularly known as the Ship Subsidy Bill of 1922. This is, however, an inadequate designation, since the bill is concerned in large part with the strengthening of the indirect-aid features of the merchant marine law. But a distinctive feature was the provision for a general navigation bounty to vessels conforming to certain requirements, securing approval of the Shipping Board, and entering into contracts with that Board for a period not exceeding ten years. To be entitled to such compensation, vessels were to have a specified minimum gross tonnage and the highest classification by the American Bureau of Shipping, must be of American registry and ownership and be manned by crews two thirds of whom are American citizens, and, as a rule, be American built. Payment was to be based on a combination of speed, tonnage, and distance covered in our foreign trade or in certain lines of trade with the more distant possessions of the United States. The minimum rate — one half cent per gross ton per hundred miles — was fixed for ships with a speed of less than thirteen knots; the general maximum, two and one tenth cents per gross ton per hundred miles, for those having a speed of twenty-three knots or over. The fund for meeting these payments was to be derived from the following sources: (1) one tenth of the customs duties on all imports; (2) the total tonnage dues collected in American ports on all vessels American and foreign; and (3) one half the amount by which the net earnings of bounty-receiving vessels should exceed ten per cent per annum of the capital invested.

After protracted debate, this bill failed to pass the Sixty-seventh Congress, and the Sixty-eighth is expected to regard similar proposals with even less favor.

Pros and Cons of Government Aid to American Shipping. — The formulation of a post-war shipping policy for the United States has been complicated by a number of factors, and es-

pecially by the existence of a large government-owned fleet extemporized as a part of the war program and by the fact of a world surplus of shipping. But the basic considerations have not been essentially changed by war experience or by recent tendencies in our foreign trade.

The arguments for and against government aid to shipping are much the same as those used by advocates and opponents of the general policy of protection. As a general principle of economics, if protection to manufactures and agriculture can be justified, the right of navigation to equal consideration can hardly be denied. It is not, however, a theory or a principle as much as it is a condition which must be faced. As regards the practicality of navigation protection, no universal rule can apply. The question is whether, all things considered, such protection conduces to the permanent maintenance and development of the efficiency of the national shipping and, if it does, whether a national gain results which outweighs the cost involved.

On economic grounds it is argued that a merchant marine is extremely desirable mainly for two reasons: (1) because it would mean an annual saving of hundreds of millions of dollars otherwise paid in the form of freights to foreign ship-owners; and (2) because the assurance of a well-balanced merchant marine would cause an extension of American commerce on the assumption that "trade follows the flag." For both of these reasons it is contended that there would be "an enlargement of the opportunities for American capital and labor." The first of these contentions merits but passing notice; it greatly exaggerates the total freight charges on our imports and exports, assumes that Americans pay the freight both ways, disregards the earnings of American capital invested in shipping under foreign flags, and overlooks the fact that more American capital and labor are not attracted to shipping because they find more effective employment in

other lines. The second certainly is subject to sweeping qualifications, especially in view of the remarkable growth of our trade in the days of our declining merchant marine, the great influence of the tramp steamer seeking cargo when and where it promises largest profits irrespective of nationality, and the large part played by foreign investments in determining the volume and direction of exports. Nevertheless there may well be cases where trade developments of ultimately great national importance hinge upon direct and regular sailings which foreign enterprise fails to provide and to which domestic capital is not attracted as promptly as national interest may dictate. Moreover, America's experience as a neutral during the recent European War served to emphasize the handicap to our trade arising from dependence upon ships of nations which may at any time become involved in hostilities to which our nation is not a party.

The political arguments in favor of a merchant marine for a country like the United States are, on the whole, the most convincing. These stress the importance of assuring communication with our island possessions and of preparing for national defense in the event of war. A national merchant marine may be so developed as to prove a valuable means of training sailors and supplying auxiliary vessels essential to naval efficiency in time of crises. Private initiative cannot be counted upon to provide for such exigencies, because business interest may not dictate the type of construction and the combination of vessels best suited to naval purposes and because the cost of construction and of operation under American registry is somewhat heavier than that of foreign competitors.

If these arguments are to find response in government policy, what forms of aid are preferable? Government ownership seems to have been definitely repudiated. A general bounty system finds little justification either in foreign experi-

ence or in the American situation. Discriminatory duties invite retaliation and tend to hamper rather than to facilitate the growth of satisfactory commercial relations. Free ships and duty-free shipbuilding materials appeal to reason, but such negative policies alone are not likely to prove decisive. Monopoly of the coastwise trade, as extended under the act of 1920, may be regarded as assuring colonial communication and contributing to preparedness and to the needs of commerce, but such extension is open to criticism as a perversion of the coastwise idea. All things considered, if positive measures are to be employed, carefully devised subventions hold the greatest promise of success.

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1. The Seamen's Act of 1915 as a factor in the problem of maintaining and developing an American merchant marine. *Proc. Am. Acad.*, 6: 113-137; *Annals*, 63: 232-243; PHELPS, 329-344.
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8. Should the Subsidy Bill of 1922 have been enacted into law? *Joint Hearings*, 1922; *Cong. Record*; periodical indexes.

9. Just how essential is a large American merchant marine to the satisfactory development of our foreign trade in time of peace? KIDD, *Foreign Trade*, 246-252; JOHNSON AND HUEBNER, 487-490; National Foreign Trade Council, *Ocean Shipping*; Phelps, *passim*.

10. If a large part of American exports and imports were carried in American bottoms, would there be any guarantee that ocean rates would be lower than under existing conditions?

11. Were the United States navigation laws of 1789 the result of a compromise? WELLS, *Our Merchant Marine*; also his articles on Navigation Laws in *Lalor's Cyclopedia*.

12. Who was Hugo Grotius? What did he write? In what language? What has been the influence of his work? (Any encyclopedia.)

13. Give examples to show that a nation of sailors wins in naval warfare.

14. Was Adam Smith opposed to the general principles of Mercantilism? Are navigation laws one application of these principles? What was Smith's position regarding the English navigation acts? Cite the views of other English economists on this point.

15. Give other examples than those mentioned in the text of national claims over high seas.

16. English coasting trade is open to all vessels, both domestic and foreign. Do many foreign vessels engage in this trade in England?

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- A. Cross references.
- B. Government publications.
- C. General references, such as dictionaries and encyclopedias.
- D. Special references.
- E. Periodicals.

The abbreviations used throughout the book are explained, for the most part, in the general bibliography which follows, excepting the abbreviations for court decisions, the explanation of which may be found in any dictionary or encyclopedia of law. United States government documents are indexed in the Document Catalogue as well as in indexes for special departments. Poole's Index, International Index, and Readers' Guide to Periodical Literature, are to be found in any library of considerable size.

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